1608.

SUPREME COURT OF THE UNITED STATES.

No. 151.

THE COMPANY FOR ERECTING AND SUPPORTING A TOLL BRIDGE, WITH LOCKS, FROM ENFIELD TO SUFFIELD, PLAINTIFF IN ERROR,

vs.

THE HARTFORD AND NEW HAVEN RAILROAD COMPANY.

IN ERROR TO THE SUPREME COURT OF ERRORS FOR THE STATE OF CONNECTICUT.

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J. & G. S. Gideon, printers.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the judges of the supreme court of errors within and for the State of Connecticut, greeting:

Because in the records and proceedings, as also in the rendition of a judgment in a plea which is in the said court of errors before you, between the Company for erecting and supporting a toll-bridge, with locks, from Enfield to Suffield, a corporation in the county of Hartford, and State aforesaid, duly incorporated by the laws and authority of said State, with power to sue and be sued, of the one part, and the Hartford and New Haven Railroad Company, also a corporation in said county and State, duly incorporated by the authority and laws of said State, with power to sue and be sued, of the other part, a manifest error hath happened to the great damage of the "Company for erecting and supporting a toll-bridge with locks from Enfield to Suffield," as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all the things concerning the same, to the Supreme Court of the United States, together with this writ; so that you have the same at Washington on the first Monday of December next, in the Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Roger B. Taney, esquire, chief justice of the Supreme Court of the United States, at Washington aforesaid, this 31st day of August, in the year of our Lord one thousand eight hundred and forty-seven, and of the independence of the United States the seventy-second. CHAS. A. INGERSOLL, [SEAL.]

Clerk of the circuit court of the United States for the district of Connecticut, in the second circuit.

Allowed. SAMUEL CHURCH,

Chief judge of the supreme court of errors of the State of Connecticut.

In pursuance of the within command herewith, I send the record and process in the suit referred to in the foregoing writ.

Witness my hand, and the seal of the supreme court of errors of the State of Connecticut, this twenty-first day of September, A. D. 1847. [SEAL.] SAMUEL CHURCH,

Chief judge of the supreme court of errors of the State of Connecticut.

To the honorable superior court to be holden at Hartford, within and for the county of Hartford, on the last Tuesday of January, 1844, sitting as a court of chancery:

The petition of the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, by their agent, James Dixon, of Hartford, humbly sheweth: That the General Assembly of the State of Connecticut, at their session holden at New Haven, on the second Thursday of October, 1798, incorporated said company by their name aforesaid, with power among other things to sue and be sued, and with the powers hereinafter described, and James Dixon, of said Hartford, is now a member and stockholder in said company.

And, in and by said act of incorporation, your petitioners were empowered to erect a bridge across Connecticut river, from Enfield to Suffield, in said county of Hartford, and to collect of all persons passing over, or using said bridge, the following tolls, viz:

For each person four cents; for each person and horse, eight cents; for each two wheeled carriage, with one person and one horse, fourteen cents; for each four wheeled carriage, with two horses and one person, twenty-eight cents; for each one horse pleasure sleigh, and one person, fourteen cents; for each two horse pleasure sleigh and one person, eighteen cents; for each two or three cattle loaded team, sled, or wagon, and driver, thirty-cents; for each four or five cattle loaded team, sled, or wagon, and driver, thirty-five cents; for each loaded team, sled, or wagon, with more than five cattle, forty cents; for each one horse cart or sleigh, loaded, and driver, fourteen cents; for horses, cattle, and mules, each seven cents and four mills; for sheep, goats, and swine, each one cent and two mills; and for empty teams at half the price of loaded teams; which tolls the said company were authorized to collect for their own use and benefit for the term of one hundred years, or until the said company shall have been re-imbursed for their expenditures for the construction of said bridge, with an interest of twelve per cent.; and by said act it was further provided, that said company should maintain and keep said bridge in good repair during said term of one hundred years, subject to the inspection of the General Assembly, and that no person or persons should have liberty to build another bridge, between the north line of said Enfield and the south line of Windsor, across said river.

And the said company were organized under their said charter, and at a legal meeting proceeded to choose a president and directors, and the officers necessary to carry into effect the objects of said grant.

And your petitioners further say, that said bridge was required to be built and completed within six years from the rising of the General Assembly, in May, A. D. 1779, and the General Assembly of this State, at their session, holden at Hartford, on the second Thursday of May, A. D. 1805, extended the time of building said bridge to the 1st day of June, A. D. 1808. And it was further provided that, upon the finishing said bridge within the time limited, the petitioners should have the same rights and privileges, and be subject to the same regulations, and should have a right to collect the same toll, as were vested in and belonged to said company by their original grant from the General Assembly. And by a further act, passed by the General Assembly at their

session in May, 1806, it was further provided, that said petitioners should have liberty to erect and finish said bridge at any time within three years from the rising of the General Assembly at their present session; and it was then further provided that, upon their finishing said bridge within the time in said last act limited, the petitioners should have the same rights and privileges, and be subject to the same regulations, and should have a right to collect the same toll, as were vested in and belonged to them by their original charter from the General Assembly.

And the petitioners further represent, that said bridge was completed agreeably with the terms of their original grant within the time limited in the last aforesaid act, and the same was accepted and approved by the General Assembly, and a resolution passed at the May session of said assembly, holden at New Haven, on the 2nd Thursday of October, A. D. 1809, authorizing said company to take the tolls for crossing said bridge prescribed in their grant.

And the petitioners continued to receive toll from all persons crossing said bridge, according to the provisions of their charter, until the year , when the said bridge was carried away by floods and ice, and destroyed.

And the petitioners further represent, that by a resolution of the General Assembly of this State, passed at their May session, holden at New Haven, A. D. 1826, said company was authorized to rebuild said bridge within five years, with all the rights and privileges granted by their original charter, and in and by a further act, passed by said General Assembly at their session holden at Hartford, in May, A. D. 1829, it was provided that said company should be authorized to build said bridge across Connecticut river at its former site, or at some suitable place at or near the ferry, at a place called Warehouse Point, in East Windsor, provided that said bridge should be erected and finished within six years from the then present session of said assembly. And the petitioners further say, that within the time limited by said last act, they rebuilt their said bridge according to the provisions of the same, upon the site of their first mentioned bridge, and complied with all the duties incumbent upon them.

And the petitioners further say, that in the erection and maintainance of these said bridges, they have expended a large sum of money, to wit, the sum of sixty thousand dollars in the whole; and that the said franchise granted to them by the several acts of said Assembly relating thereto, is of great value, to wit, of the value of fifty thousand dollars; and that said last bridge, so by them erected, is now standing, and in good and sufficient repair; and that they are now constantly receiving tolls from all persons crossing the same, as authorized in their original grant; and that, with the exception of the time when said bridge was carried away as aforesaid, they have constantly received tolls as aforesaid ever since the erection of the first bridge, in the year 1808; from which time last aforesaid, until the date of this petition, they have been, and now are, in the full and undisturbed possession of their said franchise; and the petitioners aver, that the term of one hundred years from the time

when their original charter was granted has not elapsed, nor have they realized or received the cost of erecting said bridge first erected, together with the interest theron, at the rate of twelve per cent. from and after the the time fixed in said charter; and the petitioners are now in the full possession of their exclusive right to build a bridge within their specified limits.

And the petitioners aver, that long after their said act of incorporation, and the construction of their last mentioned bridge, and while the same was standing and in good repair, and the petitioners were in the actual receipt of tolls from all persons crossing the same, viz., at the session of the General Assembly of the State of Connecticut, holden in May, 1835, "the Hartford and Springfield Railroad Company was incorporated by said legislature, with power, among other things, to sue and be sued, and to locate and construct a railroad from some suitable point in the city of Hartford, in said State of Connecticut, by the most direct and feasible route, to the northern line of the State of Connecticut, and to transport, take, and carry property and persons upon said railroad by the power and force of steam or animals, or of any mechanical or other power, or any combination of them, which said Railroad Company may choose to apply; and, in and by said charter, it was further provided, that should it become necessary to erect a bridge across Connecticut river, said Railroad Company are authorized and empowered to erect the same, for the sole and exclusive use of the travel on the said railroad; and it shall not be lawful for said company to permit the passing of said bridge by carriages of any description other than those which are adapted to the travelling on said railroad, nor by horses not attached to such railroad carriages, nor by persons on foot, nor by any other travel whatever, except by such persons, carriages, or horses as may be in the immediate service of said Railroad Company.

And the petitioners further represent, that after the enactment of the resolutions aforesaid, and prior to the first day of October, 1842, there existed a corporation called the Hartford and New Haven Railroad Company, which had been theretofore duly incorporated by the Legislature of the State of Connecticut, with power, among other things, to sue and be sued, and to construct a railroad from the city of New Haven to the city of Hartford; that the said Hartford and New Haven Railroad Company had constructed a railroad from New Haven to Hartford in accordance with the provisions of their said act of incorporation; that at the special session of the General Assembly of the State of Connecticut, holden at New Haven, on the 25th day of October, 1842, said Hartford and New Haven Railroad Company were duly authorized and empowered to extend their railroad from their depot in the city of Hartford to the north line of this State, and with the consent of Massachusetts to the town of Springfield, in the State of Massachusetts, by the most direct and feasible route. And for that purpose said company were thereby authorized to increase their capital by an addition thereto of not more than five thousand shares; and in and by said act it was further provided, that said company in extending their railroad as aforesaid, should continue to enjoy all the powers granted to them by their charter, and several

amendments thereof and additions thereto, except exemption from taxation, (which exemption should not apply to the new stock raised by said resolutions;) and that all the provisions of the Hartford and Springfield Railroad Company, and the several amendments thereof, and additions thereto, should be extended to the Hartford and New Haven Railroad Company, (as if the same were additions to the charter of the said last named company,) to enable them to extend their road as aforesaid, except so far as modified by said resolutions.

And the petitioners aver, that the stockholders of the said Hartford and New Haven Railroad Company, at a meeting specially called for that purpose, in compliance with the requirements of said resolutions, approved of said resolutions; and that the said Hartford and New Haven Railroad Company have commenced the construction of said railroad from Hartford to the north line of the State of Connecticut, and the same has been located by the commissioners thereon so as to cross the Connecticut river between the towns of Enfield and Suffield, in the State of Connecticut, by means of a bridge to be there constructed across said river, contrary to the provisions of the charter of your petitioners; which place, where said bridge is about to be constructed across said river, is between the north line of Enfield and the south line of Windsor, specified in said grant of the petitioners, and about one mile south of the said bridge of the petitioners.

And the petitioners further say, that the said Hartford and New Haven Railroad Company, by themselves, and by their officers and agents, have declared, and do declare, that their design and intention is to construct a bridge across Connecticut river at the place aforesaid, for the transportation of persons and property across said river, and for the purposes expressed in their said act of incorporation; and they threaten forthwith to proceed there to construct the same, and have so located their said road, and caused the same to be so located, as to pass and cross Connecticut river at the place aforesaid, between the north line of Enfield and the south line of Windsor, and have prepared and are preparing the materials for the construction of the same at said place, and are transporting materials to said place for the purpose of there erecting said bridge.

And the petitioners further allege, that the acts of the General Assembly of this State, under and by authority of which the said Railroad Company claim a right to erect a bridge across the Connecticut river between the north line of Enfield and the south line of Windsor, provides no compensation for the property and franchise of your petitioners; and that the said property and franchise of the petitioners, if taken by said Railroad Company, will be taken without any compensation whatever; and the said Railroad Company have not offered, and do not offer, any compensation therefor.

And the petitioners allege, that the authority under which the said Railroad Company claim a right to erect their bridge across Connecticut river as aforesaid, and all and any acts of the General Assembly of this State which purport to give to said Railroad Company a right to erect a bridge for any purpose across Connecticut river within the said exclu-

sive limits of your petitioners, are in violation of the Constitution of the United States.

And the petitioners aver, that, by the erection of said bridge by said Hartford and New Haven Railroad Company, a great portion of the travel and transportation that would otherwise pass over the bridge of your petitioners will be diverted therefrom, and will pass over said contemplated bridge of said Hartford and New Haven Railroad Company, and thereby, and by the erection of said bridge by said Railroad Company, the petitioners will be greatly damnified and injured, and deprived of the benefits to which they are entitled under their act of incorporation; and that they are without adequate remedy at law, and must lose their just rights unless relieved by your honor as a court of equity.

Your petitioners, therefore, pray your honor to take their case into consideration, and, upon the above facts being found true, to order and enjoin the said Hartford and New Haven Railroad Company, and their directors, agents, workmen, engineers, and servants, under a suitable penalty, to desist from proceeding to erect said bridge as aforesaid anywhere between the north line of Enfield and the south line of Windsor, or grant such other relief as shall seem to your honor just and reasonable; and your petitioners will ever pray, &c.

HARTFORD, *December* 28, 1843.

The Company for erecting and supporting a toll-bridge with locks from Enfield to Suffield.

By their agent, JAMES DIXON.

To the sheriff of the county of Hartford, his deputy, or either constable of the town of Hartford, within said county, greeting:

By authority of the State of Connecticut, you are hereby commanded to summon the Hartford and New Haven Railroad Company (which company has an office and place of doing business in said town of Hartford,) to appear before the honorable superior court next to be holden at Hartford, within and for the county of Hartford, on the last Tuesday of January, 1844, then and there to show cause, if any they have, why the prayer of the petitioners should not be granted.

Hereof fail not, but of this petition and citation make due return according to law.

Dated at Hartford, this 28th day of December, A. D. 1843.

CHARLES SHEPARD,

HARTFORD COUNTY, *ss:* *Justice of the Peace.*

Hartford, January 15th, 1844.

Then I served the within petition and citation, by leaving with Horatio Fitch, secretary of said Hartford and New Haven Railroad Company, a true and attested copy of this process.

Attest: CHESTER ADAMS, *Sheriff.*

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In chancery, before the superior court for the county of Hartford, next to be holden at Hartford, in and for said county, on the 8th day of April, 1844.

The cross bill and petition of the Hartford and New Haven Railroad Company humbly sheweth:

That the charter of said Bridge Company, and the several amendments thereto made, are in the words and figures contained in a schedule hereto annexed, and denominated "Charter of the Enfield Bridge Company;" and the charter of the Hartford and New Haven Railroad Company, and its several amendments and additions, are in the words and figures contained in a schedule hereto annexed, and denominated "Charter of the H. and N. H. Railroad Company;" and the charter of the Hartford and Springfield Railroad Company, and its several amendments and additions, are in the words and figures contained in a schedule hereto annexed, and denominated "Charter of the H. and S. Railroad Company;" to which said several charters and schedules your petitioners would refer, and make the same parts and parcels of this bill.

And your petitioners, the said Railroad Company, aver, that the said bridge, provided for by said charter of the said Bridge Company, and described in said bill of complaint, has not cost the sum of sixty thousand dollars, as charged in said bill, but on the contrary a much smaller sum of money, and has been built and maintained at a moderate expense by said Bridge Company; and that a considerable portion of the costs of said bridge and its repairs, and as your petitioners, the said Railroad Company, believe and charge, an amount exceeding the present value of said bridge, has been furnished by the bounty of the State of Connecticut, conferred upon said Bridge Company by the Legislature of said State, and received and enjoyed by said Bridge Company.

And the said Railroad Company also aver, that the tolls of the said Bridge Company have been large and productive, and have yielded the said Bridge Company great sums of money, annually, in proportion to the money by said company expended upon said bridge; and, as said Railroad Company believe, and therefore charge, the said Bridge Company have already been fully remunerated in and upon said bridge, and that the tolls upon and over the same ought to cease, and the same become a free bridge and public property. And the said Railroad Company further aver, that the said bridge is not of greater value than the sum of five thousand dollars, and that the said franchise, granted by said charter, is not a grant of a line of travel, nor of all travel, over said river, and is of no value to the said Bridge Company, except to enable them to erect and maintain said bridge, unless it can be made the means of depriving the said Railroad Company of the power to construct their railroad over and across the Connecticut river, in the line of the most direct and feasible route for a railroad from Hartford to Springfield, and in a line which said Bridge Company never has and never intends to occupy by a bridge, or any way to use under their charter.

And the said Railroad Company further avers, that said bridge was built by said Bridge Company to accommodate the several kinds of travel enumerated in their charter aforesaid, and that said company might collect and receive tolls, such as are enumerated in said charter, of said kinds of travel; and, so long as the same shall remain and be kept in good repair, it may continue to be used for said kinds of travel, and produce such tolls, until the same shall become a public bridge. But said bridge is not so constructed, nor has it the strength necessary to accommodate the passage of a locomotive engine, nor a train of freight or passenger cars, whether with or without such engine, but is wholly insufficient and inadequate therefor, and would be highly dangerous for the lives and property of the persons who should attempt to pass the same in such a train of cars.

And the said Railroad Company also avers, that said bridge is placed so low, and between such, and in such a situation, with reference to the river banks and the adjacent country, that a line of railroad cannot be located to come and cross said river at any reasonable expense in the line of said bridge.

And the said Railroad Company also avers, that the abutments and piers of said bridge are so constructed that the same are inadequate to sustain a suitable structure for a railroad crossing; and said bridge cannot be so rebuilt or remodeled, with the materials now in the same, as to be used for a railroad crossing; and that the whole structure is unsuitable, inadequate, insufficient, impracticable, useless, and dangerous, as a crossing for the railroad of the Railroad Company; and the said Railroad Company in fact aver, that the said Bridge Company have no bridge for the use of said Railroad Company, and no claim for any toll of said Railroad Company, for the accommodation of their trains for passengers or freight, inasmuch as no such travel is provided for in their charter, or can be accommodated by their bridge, which they have erected under the same.

And the said Railroad Company further avers, that under their charter aforesaid, as they have not the power, so they have never tried, nor have they now any intention or purpose, to construct a bridge across Connecticut river within the said limits mentioned in the charter of said Bridge Company, or to erect any structure to be used as a bridge, by any person or persons whatever, of whom the said Bridge Company has the right to take toll; nor are the said Railroad Company engaged in erecting or constructing any work, except such as is necessary to make a railroad crossing over said Connecticut river, inasmuch as there is not any present means of crossing said river, nor any way in which a railroad train can be passed over said river, unless the said Railroad Company build and construct a suitable crossing or viaduct for their trains of freight and passengers.

And the said Railroad Company have located the line of their railroad across said river, from the bank of said river now owned by said Railroad Company, on the western side of said river, to the bank of said river owned by said Railroad Company on the easterly side there-

of, in the line staked out, surveyed, and located by said company; and the commissioners on said railroad, according to the charter of said Railroad Company, and as appears by the location maps of said Railroad Company, and by their records, and said Railroad Company, propose and intend to erect a superstructure to support the rails of their railroad of the width of seven feet on each side of the line aforesaid, and to do no more than is necessary to erect a suitable, and proper, and permanent superstructure for the support of the rails, and to make a safe crossing for their locomotive engines and trains for freight and passengers, and in compliance with the charter aforesaid.

And, inasmuch as most of the allegations aforesaid rest in the knowledge of said Bridge Company and its interested officers, and cannot be proved by the said Railroad Company by common law testimony, the said Railroad Company pray that the said Bridge Company be directed by this honorable court to disclose, set forth, and answer to the truth of the allegations in this cross bill contained, as fully as if interrogated as to the same, line by line, and paragraph by paragraph; and that said company make full, minute, and detailed statements, under oath, as to the cost of said bridge, the amount thereof obtained by grant from the State, the expense of repairs of the same, the annual expenses and annual income of the same, and the other allegations of this bill; and that the court, upon finding the allegations in this bill true, will dismiss the bill of said Bridge Company with costs, and grant such other relief as to justice and equity may appertain.

Per S. J. HITCHCOCK, &
HUNGERFORD & CONE, *Att'ys.*

ENFIELD BRIDGE COMPANY,
vs.
H. & N. H. RAILROAD COMPANY. } In chancery.

Superior court, Hartford county, April 8, 1844.

The respondents, saving to themselves all manner of exceptions to the insufficiency of said bill of complaint, for answer thereto say, that all the allegations therein, not admitted by the cross bill herewith filed, are not true. Whereupon they pray to be dismissed with their costs.

Per HITCHCOCK, &
HUNGERFORD & CONE, *Att'ys.*

Hartford superior court. April. Adjourned term, 1844.

THE COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
THE H. & N. H. RAILROAD COMPANY.

Petitioner's disclosure and answer to cross bill.

And now the petitioners, saving and reserving to themselves all and all manner of exceptions which may be had and taken to the manifold

errors, uncertainties, and insufficiencies of said cross bill, answered and disclosed an oath thereto, as follows:

That the said resolves of the Legislature of this State, constituting and amending the charters of the parties respectively, are correctly set forth, and that the resolve in the first schedule, named in said cross bill, passed May, 1839, was passed upon the application of said Bridge Company, and with the knowledge and consent of said Railroad Company.

The schedule hereto annexed, marked A, contains, according to the best knowledge and belief of the petitioners, a just and true statement of the cost of said bridge, the amount obtained by grant from the State, the expenses of repairs, the annual expenses and annual income thereof, from the time of its construction to day of , when the accounts were last made up.

The statement marked B, contains a statement made up according to the provisions of the charter, allowing twelve per cent. annual interest on their investment after applying, from time to time, the nett receipts, showing the present amount due the company before the bridge can become free, according to the provisions of the charter of the petitioners.

Both said statements are true, according to the best knowledge and belief of the petitioners, and they pray that the same may be deemed and taken as part of this answer.

And the petitioners further say, that they have not been remunerated for their expenditures on said bridge, or for any part thereof, and that the tolls thereof ought not to cease, and that the same ought not to become a free bridge nor public property; and that the said bridge is of much greater value than the sum of five thousand dollars; and that it is not true that the franchise granted by said charter is not a grant of a line of travel, or of all travel over said river, by means of a bridge within said limits; and it is not true that said franchise is of no value to said Bridge Company, except to enable them to erect and maintain said bridge, unless it can be made the means of depriving the said Railroad Company of the power to construct their railroad over and across Connecticut river, in the line of the most direct and feasible route for a railroad from Hartford to Springfield, and in a line which said Bridge Company never has, and never intends to occupy by a bridge, or in any other way to use under their charter.

And said Bridge Company admits it to be true that said bridge was built by them to accommodate the several kinds of travel enumerated in their charter; but said bridge was not built to accommodate such travel exclusively, but also to accommodate all other kinds of travel that might have occasion to pass said bridge, and has always, in fact, hitherto accommodated such travel; and it is true, as averred by the respondents, that the said Bridge Company may collect and receive such tolls as are enumerated in their charter; and so long as the said bridge shall remain and be kept in good repair, it may continue to be used for such kinds of travel, and produce such tolls, until by such tolls until the same shall become a public bridge; but said railroad will divert from said Enfield Bridge much travel that would otherwise pass over the same, and pay tolls thereat.

And said Railroad Company have never advised said Bridge Company of the weight or dimensions of the locomotive engines, nor of the freight or passenger cars intended to be run over said railroad, and have never requested or demanded of said Bridge Company accommodations for the passage of the same over said bridge, or that the same might pass over said bridge; nor have they ever notified said Bridge Company of the contemplated level of their said railroad, so that said Bridge Company are unable to answer whether the said bridge is or is not inadequate or insufficient for the passage of such engine and cars over the same, and whether it is or is not dangerous for the lives and property of the persons who should attempt to pass said bridge in such cars, or whether said bridge is so placed that a line of railroad cannot be located to come and cross said river, at a reasonable expense, in the line of said bridge.

But, according to the best knowledge and belief of said Rail[road] Company, a line of railroad from Hartford to Springfield might be so located at a reasonable expense as to cross said river in the line of said bridge; and whether said Enfield bridge, its piers, and abutments, are or are not such a structure as will pass over locomotives, and freight, and passenger trains thereon. Yet, by a resolve of the Legislature of this State, passed in the year 1839, and made part of said cross bill, said Bridge Company are authorized to appropriate a part of their present bridge to the uses of said Railroad Company, or to enlarge the same, or to erect another bridge for the use of said Railroad Company within the exclusive limits of said Bridge Company, and to receive the same tolls from all persons crossing the same, as are allowed by the terms of their original charter; and said Bridge Company have always been, and now are, ready and willing to comply with the terms of said resolve, and to provide all necessary accommodations for the passage of said Railroad Company over said river, within the exclusive limits of said Bridge Company; but said Railroad Company have never requested said Bridge Company to furnish such accommodations, and have never notified them what kind of accommodations, or what description of structure was needed for the purpose of said railroad in crossing said river, but have proceeded to lay out the line of said railroad, and have selected the place of crossing said river, and the site of said contemplated railroad bridge, without any consultation of said Bridge Company. And although it is true that the passage of railroad cars and engines is not by name provided for in said charter of said Bridge Company, yet, under the charter of said Bridge Company, they have a right to receive toll for the passage of such vehicles over said bridge; and, by the terms of their charter, they have an express authority to collect and receive tolls for all passengers and freight crossing said bridge, in what way soever they may be transported over the same.

And said Bridge Company further aver, that, although it is true that the Railroad Company have not the power, yet they have had, and now have, the intention and purpose to construct a bridge across Connecticut river, within the limits mentioned in the charter of said Bridge Company, and there to erect a structure to be used as a bridge by per-

sons, of whom said Bridge Company would have the right to take toll in case such persons should cross their said bridge, and who would cross their said bridge and pay said toll, unless diverted therefrom by the bridge about to be erected by said Railroad Company; and said contemplated railroad bridge is adapted and designed to attract to itself, and divert from the bridge of the petitioners, much of the travel and transportation that would otherwise cross the bridge of the petitioners, and pay the petitioners toll therefor; and this, whether said bridge of said Railroad Company is designed exclusively for a railroad crossing or not. And said structure, when erected, will be a bridge, whether it be exclusively for a railroad crossing or not; and whether it is designed exclusively for a railroad crossing or not the petitioners are ignorant, and therefore leave the respondents to the proof thereof.

And said Bridge Company aver that there are other means of crossing said river than said railroad bridge, within the limits specified in the charter of said Bridge Company, and that within those limits all persons having occasion to cross said river, or transport property across the same, can be accommodated at said bridge of the petitioners.

And the petitioners admit that said Railroad Company have located the line of their said railroad across said river, within the limits specified in the charter of said Bridge Company; but they are not advised, and therefore cannot disclose, as to the ownership of lands on the river banks, where the railroad crosses said river.

And the petitioners admit that said Railroad Company propose and intend to erect across said river a bridge and superstructure adapted, among other things, to support the rails of their said bridge, and to make a safe crossing for locomotives and trains for freight and passengers on the site of their railroad line; of the proposed width of said superstructure and bridge the petitioners are ignorant, and therefore cannot disclose whether said Railroad Company propose and intend to do no more than is necessary to erect a suitable, proper, and permanent superstructure for the support of the rails, and to make a safe crossing for their locomotives and trains for freight and passengers; but, according to the best knowledge and belief of the petitioners, it is true, and they therefore aver it to be true, that said bridge, superstructure, or crossing, if erected, is designed to be used, and will be adapted to be used, and will be used, for passage across the same of other vehicles, and animals drawing the same, and for the transportation and passage across the same of freight and persons, not only in said freight and passenger cars, but also by other means of conveyance, and in other vehicles than in locomotives and in freight and passenger cars, and also by persons on foot.

JAMES DIXON,
Agent of said "company for supporting a toll bridge, with lock, from Enfield to Suffield."

HARTFORD, *May* 14*th*, 1844.

HARTFORD COUNTY, *ss:*

Personally appeared before me James Dixon, who has signed the

foregoing answer and disclosure, and made solemn oath to the truth of the same, to the best of his knowledge and belief.

WILLIAM D. ELY, *Notary public*.

A.

Cost of the first bridge completed, 1809 - - -	$27,508 71
Cost of the second bridge completed, 1833 - -	15,488 04
Amount received from lottery - - - -	10,000 00

	Gross income.	Repairs & expenses.	Nett income.
1809	$1023 50	$111 23	$912 27
1810	932 17	90 00	842 47
1811	1087 18	64 98	1022 20
1812	1175 34	78 43	1096 91
1813	1227 77	97 04	1130 73
1814	1392 65	85 00	1307 65
1815	1251 66	288 72	962 94
1816	1063 32	131 58	931 74
1817	1043 23	115 64	927 59
1818	1236 09	181 26	1054 83
1819	1386 33	229 50	1156 83
1820	670 40	87 58	582 82

In 1821 the bridge was carried away, and not rebuilt until 1833, until which time no tolls, of course, were received.

Avails of timber, &c., sold in 1821 - - -	31 87	
" " 1822 - - - -	14 34	
Avails of timber, &c., sold in 1823 - - - -	300 00	
" " 1824 - - - -	481 52	
" " 1825 - - - -	513 13	
Nett income of said bridge -		$13,269 84

Receipts of 1833 - -	$688 31	
" 1834 - -	685 61	
" 1835 - -	741 92	
" 1836 - -	699 03	
*" 1837 - -	650 00	
" 1838 - -	761 51	
" 1839 - -	865 07	
" 1840 - -	846 64	
" 1841 - -	935 30	
" 1842 - -	769 49	
	7,643 88	
Expenses since 1833, including repairs, insurance, lights, and toll keeper - - -	2,652 88	
Nett income of new bridge - -		4,991 00
Nett income of both bridges - - -		$18,260 84

*The account of 1837 partly lost; the sum given above is an estimate.

The account of the expenses of the respective years is not kept distinct; it is, therefore, difficult to give the precise amount of each year.

B.

Cost of the first bridge completed, 1809 - - -		$27,508 71
Cost of the second bridge completed, 1833	15,488 04	
Received of lottery - - - - -	10,000 00	
		5,488 04

The two sums, of $27,508 71 and $5,488 04, with interest, computed at the rate of twelve per cent., according to the provisions of the charter, to the year 1843, deducting from time to time the annual receipts, amount to $1,031,279 96, being the amount due the company before the bridge can become free, according to the provisions of the charter.

At simple interest the amount would be $92,030 08.

JAMES DIXON.

The Railroad Company in court defend, plead, and say, that the facts, and every of them, alleged by the said Bridge Company, in their said answer to the defendant's said cross bill, are untrue, excepting so far forth as the same are admitted in the defendant's cross bill.

Per HITCHCOCK & HUNGERFORD & CONE,
Attorneys.

At a superior court holden by adjournment at Hartford, within and for the county of Hartford, State of Connecticut, on the first Tuesday of June, 1844, designated in the following case by Judge Williams, holding said court, who is disqualified by reason of interest.

Present, the Hon. Joel Hinman, judge.

Upon the petition of the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, shewing to this court, among other things, that the petitioners were duly incorporated by the legislature of the State of Connecticut, with power to build and maintain a toll bridge over the Connecticut river between said towns, and that, by the terms of their original charter, no person or persons should have liberty to build another bridge between the north line of said Enfield and the south line of Windsor, across said river. Also showing that they proceeded to erect, and did erect a bridge, under the provisions of their charter, and the acts amending the same, which bridge is now standing, and they are in receipt of tolls therefrom; that the Hartford and New Haven Railroad Company are about constructing a bridge over said river, within said exclusive limits, and praying for an injunction against the erection of the same.

Said petition was duly served and returned to a term of this court holden at Hartford, within and for the county of Hartford, on the last Tuesday of January, A. D. 1844, when and where the parties appeared; and the respondents to said petition filed their cross bill and petition, and their answer, praying, among other things, for a disclosure under oath from the petitioners, which disclosure was duly made; and by legal

removes said petition comes to this court, where and when the parties were duly heard, with their exhibits, witnesses, and counsel.

Whereupon this court doth find, that the petitioners and respondents were duly incorporated by the legislature of the State of Connecticut, and that their respective charters have been, from time to time, modified by sundry resolves of said legislature, all which charters and resolves appear in the schedules annexed to the respondents' said cross bill; and the resolve of 1839 therein was passed upon the application of said Bridge Company, and with the knowledge and consent of said Railroad Company.

Said corporations were duly organized shortly after the granting of their original charter, have ever since continued, and are now in existence, and have complied with the various provisions of their charters, and said resolves relating to the time within which they were to construct their respective works; and both said companies are now in the possession and exercise of the rights and franchises granted them by the legislature.

The bridge of the petitioners is now standing, and for many years has been, and is in sufficient repair for ordinary travel, and the petitioners are, and for many years have been, accustomed to receive tolls from persons and other things crossing their bridge, for which, by their charter, they were authorized to take such tolls; and that the said bridge and franchise exceed the value of five thousand dollars; and that the disclosure of the plaintiffs to the defendants' said cross bill, in the part marked B, exhibits a true statement of the expenditures and costs of, as well as receipts at, said bridge, and by said Bridge Company; and that the annual receipts at said bridge, and from the same from the time of its original construction has not yielded an income to said Bridge Company of six per cent. per annum upon the costs, after deducting from said receipts the annual expenses thereof.

And this court doth further find, that the respondents are engaged in the construction of their railroad from Hartford to Springfield, and, with the approbation of the commissioners thereon, have laid out the route of the same across the Connecticut river, (in the most direct and feasible route from Hartford to the north line of the State, and thence to Springfield,) about one mile and a half below the bridge of the petitioners, and between the north line of Enfield and south line of Windsor, and are about to construct a bridge for the purpose of a railroad, crossing over said river at said place, for the purposes of said railroad only, and not adapted to, or susceptible of, any other kind of travel than by railroad cars, and of the description mentioned in the defendants' said cross bill.

That the respondents claim the right to construct said crossing by virtue of the provisions in their said charter and amendments to the same, and without any compensation to the petitioners, and have not made any such compensation.

And this court doth further find, that the erection of said railroad crossing, and the use thereof for the business of said company, will have

1016.

a tendency in some degree to divert the travel from said Enfield bridge; but very little, however, if any more, than a railroad from Hartford to Springfield, with a crossing at any other point between Hartford bridge and the north line of Enfield, would do.

And this court doth further find, that said bridge and franchise of the plaintiffs does not depend entirely upon any power which said Bridge Company may thereby have of depriving the defendants of a feasible route for their line of road, but has a value independent thereof.

That said bridge of the plaintiffs was built exclusively to accommodate the several kinds of travel enumerated in their charter, for which alone they are authorized to receive tolls under their charter, or, at most, for the ordinary kinds of travel, and has always accommodated all the travel that has hitherto had occasion to cross said river at said bridge; that said bridge of the plaintiffs is not, and never was, either in its structure, or adapted, or fit for a railroad crossing, but the same is, and always has been, wholly insufficient and inadequate therefor, and that it would be very dangerous to attempt to cross it with a locomotive engine, or train of cars, and that it is constructed so low, and so situated in reference to the direction of said railroad, the river banks, and adjacent country, that a line of railroad cannot be located to come to and cross said river at any reasonable expense in the line of said bridge.

A new bridge will be necessary if said road crosses the river at the Enfield bridge, and the crossing the river at that place, though not entirely impracticable, yet the expense of it would be much greater than the expense of crossing at the place laid by the commissioners, and so much greater in comparison with the route laid by the commissioners as in the opinion of the court not to be within any reasonable expense to the company; but, at a heavy additional expense, said road might be made to cross said river at said Enfield bridge, or at points not embraced between the north line of Enfield and south line of Windsor, and then only with such curves as to render the travel upon said road dangerous, unless at very great additional expense to the company.

And this court doth further find, that the said Railroad Company have purchased, and now own, the land on each side of said river, at the points between which they contemplate to erect said proposed crossing

And the court further find, that there never was any organization of any company under the aforesaid charter of the Hartford and Springfield Railroad Company, except so far as the same was incorporated with, and became a part of, the Hartford and New Haven Railroad charter, as shown by the acts and charters aforesaid.

That said river is navigable for flat-bottomed small steamboats, and other boats of small draft, for passengers and freight, though above tide waters.

And this court doth further find, that said Bridge Company have no right or claim to take any other toll except such as is provided for by their said charter, and amendments thereto annexed, and that said Railroad Company never have, nor have they now, any intention or purpose to construct a bridge or crossing over said river within the said

limits mentioned in the charter of said Bridge Company, or to erect a structure of any kind to be used as a bridge by any person or persons whatever, of which the said Bridge Company has any right to take toll, unless, upon a just construction of their charter, they are so entitled to exact the same of said Railroad Company for the accommodation of their cars with passengers crossing said river, or of passengers in said cars; nor are said Railroad [Company] so engaged in erecting or constructing any work, excepting such is necessary for a railroad crossing over said river, for the exclusive accommodation of railroad vehicles upon said railroad, there being no mode of crossing said river with their locomotives or cars, except as the same is provided and constructed by said Railroad Company; and that said Railroad Company have located their said railroad over said river, in a line which said Bridge Company never have occupied by a bridge, and there was no evidence that said Bridge Company ever intend to occupy it.

The court reserves the question of what decree shall be passed, or what disposition made of the case for the advice of the supreme court of errors, next to be holden in said county.

A true copy of the original files, and records, and proceedings in said cause.

L. T. PEASE, *Clerk*.

Resolve incorporating the company for erecting a toll bridge, with locks, from Enfield to Suffield, passed October, 1798.

Resolved by this Assembly, That liberty be, and the same is hereby, granted to John Reynolds and his associates, to erect a bridge across from Enfield to Suffield, at the place mentioned in said report, and to collect from all persons passing over, or using said bridge, the following toll, viz:

	Cents.	Miles.
For each person	4	00
Each person and horse	8	00
Each two wheeled carriage with one horse and one person	14	00
Each four wheeled carriage with two horses and one person	28	00
Each one horse pleasure sleigh and one person	14	00
Each two horse pleasure sleigh and one person	18	00
Each two or three cattle, loaded team, sled, or wagon, and driver	30	00
Each four or five cattle, loaded team, sled, or wagon, and driver	35	00
Each loaded team, sled, or wagon, with more than five, cattle and driver	40	00
Each one horse cart or sleigh, loaded, and driver	14	00
Horses, cattle, and mules, each	7	4
Sheep, goats, and swine, each	1	2

And empty teams at one-half the price of loaded teams.

And also to collect from all persons passing said locks, thirty-four cents per ton.

Which said toll may be collected by the said John Reynolds and his associates, and his and their heirs and assigns, and for their own use and benefit, for the term of one hundred years, or until the said John Reynolds, and his associates, shall receive the cost of erecting said bridge, and an interest of twelve per cent. from and after the time fixed in this resolve for erecting and completing said bridge and said locks, to the acceptance of the General Assembly, or a committee to be by them appointed for that purpose; and after the expiration of said term of one hundred years, no more toll shall be collected than the General Assembly shall then adjudge and determine to be sufficient to keep said bridge and said locks in repair, and shall be appropriated for that use.

The said John Reynolds and his associates shall give bonds to the treasurer of this State, in the sum of twenty thousand dollars, with good and sufficient security to the acceptance of said treasurer, that said bridge shall be erected within the time limited in this grant or resolve; which said bridge, so to be erected, shall not be less than twenty-five feet wide, and said locks shall be at least thirty feet wide, so as to admit the passage of rafts and boats, and shall be completed within the term of six years, from the rising of the General Assembly in May, 1799, or on failure thereof this grant shall be null and void.

The said John Reynolds and his associates, with his and their heirs and assigns, be, and hereby are, constituted a corporation by the name of "The Company for erecting and supporting a toll bridge with locks, from Enfield to Suffield," and by that name to sue and be sued in all courts of record, and to ordain and establish all such by-laws, ordinances, and regulations, as shall be necessary to enable them to erect and support said bridge with said locks, and to collect the sums requisite for that purpose from the individual owners and proprietors of shares; which by-laws, ordinances, and regulations shall be subject to be repealed by the superior court; and the time and place for the first meeting of said company shall be fixed by the chief judge of the county court in the county of Hartford, and shall be advertised in the Connecticut Courant, published in Hartford, at least three weeks previous to such meeting, at which meeting said company shall choose their necessary officers, and make such regulations as they at that time find to be necessary, and the annual and other meetings of said company shall be at such time and places as said company shall appoint, and upon such warning as they shall direct; and during said term of one hundred years, said company shall keep said bridge and said locks in good repair, subject to the inspection of the General Assembly as often as they shall think proper by their committee to be appointed for that purpose; and that no person or persons shall have liberty to erect another bridge any where between the north line of said Enfield and the south line of Windsor.

Resolve, passed May, 1805.

Upon the petition of said company, praying that the time originally limited for building said bridge be extended.

Resolved by this Assembly, That the petitioners be, and they are hereby, authorized to erect and finish said bridge on or before the first day of June, A. D. 1808, any thing in said former act of this Assembly granting to them the privilege aforesaid notwithstanding; and the petitioners upon finishing said bridge by the first day of said June, shall have the same rights and privileges, and be subject to the same regulations, and shall have a right to collect the same toll, as were vested in and belonged to them by the original grant from this Assembly; provided, that before the petitioners proceed to erect said bridge, they shall give bond to the treasurer of this State, in the sum of twenty thousand dollars to the acceptance of said treasurer, conditioned that said bridge shall be finished agreeably to the provisions of said original grant.

Resolve, passed May, 1806.

Upon petition of John Reynolds and his associates.

Resolved by this Assembly, That the petitioners be, and they are hereby, authorized to erect and finish said bridge within three years from the rising of this Assembly at their present session, any thing in said former act granting to them the privilege aforesaid, and in said act extending the time for building said bridge to the first day of June, 1808, notwithstanding; and the petitioners upon finishing said bridge within the time hereby limited, shall have the same rights and privileges, and be subject to the same regulations, and shall have a right to collect the same toll, as were vested in and belonged to them by the original grant from this Assembly: Provided, that before the petitioners proceed to erect said bridge, they shall give bond to the treasurer of this State in the sum of twenty thousand dollars, to the acceptance of said treasurer, conditioned that said bridge shall, within the time hereby limited, be finished agreeably to the provisions of said original grant.

Resolve, passed May, 1808.

Resolved by this Assembly, That the aforesaid corporation be, and they are hereby, authorized and empowered to make a shore channel by excavating the bed of the river, or in such other way as they shall deem proper, over the aforesaid rapids in lieu of the locks provided in said grant to be erected. And the said corporation shall have the right to demand and receive of all persons passing through said channel the same toll as is granted to them to be taken on passing said locks. The said corporation are not by this resolve in any respect excused or restrained from making locks and canals as aforesaid, at any time during the continuance of their said grant, and receiving the toll to them granted for passing the same, if the present provision shall be found insufficient for the navigation of said river.

Resolve, passed October, 1809.

Resolved, That the building of locks upon said falls, called Mad Tom bar and Surf bar, by said company be suspended, and said company be discharged from the obligation to build the same, until the further order of this Assembly. And resolved, further, that the petitioners be authorized to take the toll prescribed by their charter, of passengers, &c., crossing said bridge, the same being finished, and having been approved by the committee appointed by this Assembly for that purpose.

Resolve, passed May, 1826.

Resolved by this Assembly, That the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, be and they are hereby, authorized to erect and finish said bridge within five years from the rising of this Assembly, and the said company upon finishing the said bridge within the time hereby limited, shall have the same rights and privileges, so far as relates to said bridge, and be subject to the same regulations, and shall have a right to collect the same toll for passing said bridge, as were vested in them by the original grant from the General Assembly.

Resolve, passed May, 1829.

Resolved by this Assembly, That said company be authorized to erect their bridge across Connecticut river at its former site, or at some suitable place, at or near the ferry at the place called Ware House Point, in East Windsor, any thing in any former resolve of this Assembly to the contrary notwithstanding.

Provided, that said bridge be erected and finished within six years from the rising of this Assembly, and that said company comply with all the other provisions and conditions of the former grants, excepting the construction of locks on said falls.

Resolve, passed May, 1839, *appropriating a part of the Enfield bridge to the uses of the Hartford and Springfield Railroad Company, &c.*

Resolved by the Senate and House of Representatives in General Assembly convened, That the Company for erecting and supporting a toll bridge with locks, from Enfield to Suffield, be authorized to appropriate a part of the Enfield bridge to the uses of the Hartford and Springfield Railroad Company, or to enlarge the same, or to erect another bridge for the use of said Railroad Company, within the exclusive limits of the Bridge Company, and to receive the same tolls from all persons crossing the same, as are allowed by the terms of their original charter.

Provided, That nothing herein contained shall impose any obligation upon said Railroad Company, or any charge upon the persons or property transported upon said railroad, or shall in any way affect the rights of said Railroad Company under their charter.

To *be* honorable superior court, to be holden at Hartford, within and for the county of Hartford, on the last Tuesday of January, A. D. 1845, sitting as a court of chancery.

The Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, by their agent, James Dixon, of Hartford, by this their supplemental bill, respectfully represent, that they brought their petition against the Hartford and New Haven Railroad Company to the honorable superior court for the county of Hartford at the term of said court, begun and holden at Hartford, on the last Tuesday of January, 1844, which said petition was, at a superior court holden by adjournment at Hartford, on the first Tuesday of June, 1844, reserved for the advice of the supreme court of errors then next to be holden in said county, as to the question of what decree should be passed, or what disposition should be made of the case. And, at the term of the supreme court of errors, begun and held at said Hartford on the second Tuesday of June, 1844, said case was continued to the next term of said supreme court of errors, and is still pending.

And the petitioners represent, that in their said petition, to which this bill is supplemental, and to which they refer, and which, with the proceedings thereon, is hereunto annexed, and made part hereof, and marked A, they set forth, among other things, to the effect that said Hartford and New Haven Railroad Company had declared their intention to construct a bridge across Connecticut river, between the north line of Enfield and the south line of Windsor, and within the exclusive limits of said Enfield Bridge Company; and that such bridge would greatly injure the bridge of said Bridge Company, by diverting travel therefrom; and that the erection of such bridge would be a violation of the charter of said Bridge Company; and that the authority under which said Railroad Company claim a right to erect their said bridge impairs the obligation of the contract contained in the charter of said Bridge Company, and was in violation of the Constitution of the United States; and praying that said Railroad Company might be enjoined against proceeding to erect said bridge, as by reference to a copy of said petition hereunto annexed, as aforesaid, and marked (A,) will more fully appear.

And your petitioners allege, that after the continuance of their said petition in the supreme court of errors, held at Hartford on the second Tuesday of June, 1844, the said Railroad Company proceeded to erect and finish their said bridge, and that since said petition was brought, and while the same has been pending, they have finished the same, and that they are now constantly using the same for the transportation of locomotives and railroad cars, and also for the transportation of travellers in said cars, and on foot, and for the transportation of freight; and that great numbers of passengers do constantly cross said bridge in said cars, and on foot, and great quantities of freight are constantly transported over said bridge, and that the structure erected by said Railroad Company over Connecticut river, between the north line of Enfield and the south line of Windsor, as aforesaid, is now in constant use as a bridge for crossing said river, and is so used by great numbers

of passengers, both in cars and on foot, to the great injury and damage of said petitioners.

And the petitioners allege that all and any acts and resolves of the General Assembly of the State of Connecticut, which purport to authorize said Railroad Company to erect their said bridge, and the said authority set up, asserted, and exercised under the same by the respondents, impair the obligation of the contract contained in the charter of the petitioners, and are in violation of the Constitution of the United States. And inasmuch as said bridge has been completed, and has been by said Railroad Company devoted to its uses as a bridge since the commencement of the petition of said Enfield Bridge Company, and is now in constant use as a bridge, by persons crossing Connecticut river, both in cars and on foot, and for the transportation of freight across said river, the petitioners file this their supplemental bill, and pray that your honor, on finding the facts herein contained to be true, will order and decree an injunction, as prayed for in the original bill of the petitioners, or grant such other relief as to your honor may seem reasonable and proper. And your petitioners, as in duty bound, will ever pray.

Dated at Hartford, this 16th day of January, 1845.

"*The Company for erecting and supporting a toll bridge, with locks from Enfield to Suffield.*"

By their agent, JAMES DIXON.

To the sheriff of the county of Hartford, his deputy, or either constable of the town of Hartford, within said county, greeting:

By authority of the State of Connecticut you are hereby commanded to summons the Hartford and New Haven Railroad Company (which said company has an office and place of doing business in said town of Hartford) to appear before the superior court to be holden at Hartford, within and for the county of Hartford, on the last Tuesday of January, 1845, then and there to shew cause, if any they have, why the prayer of the foregoing petition should not be granted. Hereof fail not, but of this petition and citation due service and return make, according to law. Dated at Hartford, this 16th day of January, A. D. 1845.

JAMES H. HOLCOMB, *Justice of Peace.*

HARTFORD COUNTY, *ss:* *Hartford, Jan.* 16, 1845.

Then I left a true and attested copy of this petition and citation at the office of the Hartford and New Haven Railroad Company, with and in the hands of Horatio Fitch, secretary of said company.

Attest, N. STARKWEATHER, *Constable.*

Fees.		
Travel, 2 m.	- - -	$0 10
Copy, 30 pages	- - -	7 50
		$7 60

Superior court, March adjourned term, 1845.

The COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
The Hartford and New Haven Railroad Company.

Supplemental bill.

Respondent ordered (Judge Storrs presiding in this case) to plead, answer, or demur, by the first Monday of May, A. D. 1845.

The COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
The Hartford and New Haven Railroad Company.

In chancery. Superior court, Hartford county, adjourned term, May, 1845.

The demurrer of the Hartford and New Haven Railroad Company to the supplemental bill of the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield.

The defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said supplemental bill contained to be true, in such manner and form as the same are therein and thereby set forth and alleged, demur thereto, and for cause of demurrer set forth and shew: That it appears from said supplemental bill that the original petition of the complainants was duly served and returned to a term of said superior court, holden at Hartford, within and for the county of Hartford, on the last Tuesday of January, 1844, where and when the parties appeared, and the respondents to said original petition filed their cross bill and petition, and their answer, praying, among other things, for a disclosure under oath from the petitioners, which disclosure was duly made; and that by legal removes said original petition of the complainants came to said superior court, holden by adjournment at Hartford, within and for the county of Hartford, on the first Tuesday of June, 1844, where and when the parties were duly heard, with their exhibits, witnesses, and counsel; whereupon said superior court found certain facts, which fully and at large appear in said supplemental bill; and that at said last mentioned term of said superior court, so holden by adjournment as aforesaid, said original petition was reserved for the advice of the supreme court of errors, then next to be holden in said county, as to the question of what decree should be passed, or what disposition made of the case; and that, at the term of the supreme court of errors, begun and held at said Hartford, on the second Tuesday of June, 1844, said cause was continued to the next term of said supreme court of errors, and is still pending; and that it appears from said supplemental bill that the same was instituted and brought after the parties had been so heard upon said original petition, and said cause had been so reserved, and while the same was so pending in said supreme court, which these respondents aver could not lawfully be done. Wherefore, and for divers other good causes of demurrer appearing in the said supplemental bill, these defendants do demur to the same, and they pray the judgment of this honorable court whether they shall be compelled to make any other or further answer to said supplemental bill, and pray that they may be hence dismissed, with their reasonable costs in this behalf sustained.

Hartford and New Haven Railroad Company.

By their attorneys, HUNGERFORD & CONE.

ENFIELD BRIDGE COMPANY,
H. & N. H. RAILROAD COMPANY.

Supplemental bill for an injunction.

To this bill there was a special demurrer, which was overruled (subject to the opinion of the supreme court) pro forma, that the whole case might be presented; and the court thereupon proceeded to inquire into the facts stated in said supplemental bill. And this court find that the defendants have gone on and completed the bridge which was contemplated under their charter, as found by this court, sitting on the first Tuesday of June last, for the purposes of the railroad only; and that since the 9th of December last the defendants have been constantly using the same for the transportation of locomotives and railroad cars, and of travellers in said cars, and for the transportation of freight; and great numbers of persons, and great quantities of freight, are constantly transported in said cars on said railroad over said bridge.

Upon the trial it was proved that the bridge was built much in the manner common to railroad bridges; that the bottom was covered with plank, and the sides secured by railing about two and a half feet in height; and that the part of the bridge over which the rails are laid is covered over the plank with sheet iron, laid curving or dishing, so that the top of the ridge, above the centre of the curve, is about two and a half inches above the lower part of said curve, and the space between the ridges is about eighteen inches; that the space between the iron rails and the side railing over the plank is covered by sheets of tin, secured together by clamping, somewhat after the manner of securing the roofs of houses, by tin sheets somewhat inclined, so that the water should run off and not injure the road below. The height of these ridges was about three-fourths of an inch above the flat part of the tin, and the ridges were about nine inches apart. Foot passengers might, without much difficulty, walk over the bridge between these ridges in the daytime, but not without danger of injury to this metal covering. The bridge is constructed in a convenient manner for the locomotives and rail-cars to pass. Foot people can also have convenient access to it, when upon the railroad; but there is no public road or highway thereto, except said railroad; and since said bridge was finished, public notice has been posted up thereon, that crossing thereon is by law prohibited.

No evidence was given that the bridge had been passed by any one before the commencement of this suit, on the 16th of January last, except by those engaged in its creation, but in a single instance, and this by a person employed on the road in Massachusetts, who, before it was planked, walked over upon the trusses.

Evidence was given, subject to objections, that since that time, and before the iron and tin plates were laid, several persons had crossed over, from time to time, as matter of convenience, when the ferry was obstructed. But there was no evidence that this was by permission of the company, or their agents; or that it had been done since the bridge was completed by the iron and tin plates.

The questions arising upon this record and statement are reserved for the consideration of the supreme court of errors.

1. Whether the plaintiff's bill is sufficient under said special demurrer.
2. Whether the evidence objected to should have been admitted.
3. What decree shall be made in the case, upon evidence properly admitted, or in what manner the bill shall be disposed of by the superior court.

Per WILLIAMS, *P. Judge.*

A true copy of the supplemental bill, service, demurrer, and finding, and reservation in said case, and of the document thereunto annexed, marked "A."

CHAUNCEY HOWARD, *Clerk.*

At a supreme court of errors holden at Hartford, within and for the county of Hartford, in the State of Connecticut, on the second Tuesday of June, A. D. 1845. Present: Hon. Thomas S. Williams, chief judge; Hon. Samuel Church, Hon. Henry M. Waite, Hon. William L. Storrs, Hon. Joel Hinman, associate judges:

The Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, by their agent, James Dixon, of Hartford, and the Hartford and New Haven Railroad Company, respondents, praying for an injunction against said Railroad Company, as per petition on file, dated the 28th day of December, A. D. 1843. Said petition was brought to the superior court holden at Hartford, in and for the county of Hartford, on the last Tuesday of January, A. D. 1844, and by legal removes came to the term of said court holden at said Hartford by adjournment, on the first Tuesday of June, A. D. 1844, when it was reserved for the advice and consideration of this court as to what decree should be passed, or what disposition made of said case. And the petitioners filed their supplemental bill, setting forth new reasons why said injunction should be granted, before the superior court holden at said Hartford, within and for said county, on the last Tuesday of January, A. D. 1845, and was by said court reserved for the advice and consideration of this court, in connection with the questions arising on the petition to which this is supplemental; and now the parties appear, and having been fully heard by their counsel, this court doth advise said superior court to grant an injunction.

Hartford county sup. court. January term, 1846.

THE COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
THE HARTFORD and New Haven Railroad Company.

Now the respondents, saving and reserving to themselves all and all manner of exceptions, &c., for further answer to the petitioners' original bill, and bill supplemental thereto, would aver and state: That, prior

to the date of the petitioners' original bill, the said Railroad Company, in pursuance of the provisions of their said charter, and the several amendments and additions thereto, surveyed, staked out, and located a centre line for their said railroad, upon, over, and across Connecticut river, and the land covered thereby, between the north line of Enfield and south line of Windsor, from a point on the bank of said river recently owned by Elizabeth Parmalee, and others, and now by said Railroad Company, on the western bank of said river, in the town of Suffield, to a point on the eastern bank of said river, recently owned by Horace Hawkins, and now by said Railroad Company, on the eastern side of said river, in the town of Enfield, and laid out their railroad six rods wide, and definitely located the same thereon; which said line, laying out, and location, said Railroad Company, by their directors, on the 23d day of September, 1843, adopted as the definite location of that part of the line, course, road, or way whereon to construct their railroad or way; and afterwards, and before the date of the petitioners' said original bill, submitted the same to Wm. H. Ellis, Wm. Field, and Hugh P. Welch, the commissioners on said railroad, appointed by the Legislature of the State of Connecticut, pursuant to the provisions of the charter of said Railroad Company, and the amendments and additions thereto, and who had no interest in said railroad, for their approval; and said Railroad Company, by its directors and said commissioners, notified said Bridge Company that said railroad had been located upon, over, and across said river, and the land covered thereby, as aforesaid, and that the same had been taken therefor, and that they, the said Bridge Company, should appear, if they had any objections to make to said definite location before said commissioners, at the depot of said Railroad Company, in the city of Hartford, in said county, upon the 29th day of September, A. D. 1843, and make all such objections as they had to make to said location, and be heard respecting the same; and said commissioners met on said 29th day of September, A. D. 1843, at said depot, and by adjournment from said 29th day of September, on divers days after said day, until the 11th day of October, A. D. 1843, and fully heard said Bridge Company, who appeared before them, and all other persons who appeared to object to said location in part as aforesaid; and on said day last aforesaid, said commissioners did approve and establish the same, as the line, course, road, or way, whereon said Railroad Company were to construct their said railroad or way, in all respects pursuant to the requirements and provisions of said charter of said Railroad Company, and the several additions and amendments thereto, as appears by the location maps of said Railroad Company, and the records of the doings of said company, and of the directors thereof, and of said commissioners in making, approving, and establishing said definite location.

And the respondents aver, that the said location is the same referred to in the petitioners' orginal bill, and the respondents' cross bill thereto, and upon which said respondents were intending, as set forth in said petition and cross bill, to erect, and have since erected, their said bridge, as

alleged in the petitioners' said supplemental bill. And the respondents would further aver and state, that afterwards, and since the commencement of this petition, viz., on the 11th day of September, 1845, the respondents preferred their application of that date against the petitioners, the said Bridge Company, to the honorable superior court for Hartford county, then next to be holden at Hartford, within and for said county, on the 4th Tuesday of September, 1845, pursuant to the provisions of the charter of said respondents, and the several amendments and additions thereto—among other things, for the appointment of three judicious and disinterested freeholders to assess the damage done to the petitioners, by reason of taking said lands and premises, over and upon which said road had been so laid out and located as aforesaid, and by the location of their said road thereon, and which said lands and premises were, and are, the same in said application described, as being about 1,500 feet in length, and extending from the western to the eastern bank of said river, and upon, over, and across the same, and the land covered thereby, and of the width therein described; a copy of which application is hereunto annexed, marked C.

And the respondents aver, that each, every, and all the statements, facts, and averments, contained and set forth in said application, were, and are, true as therein stated. And the said respondents further aver, that said application was duly served upon said Bridge Company, returned to said court to which the same was made returnable, entered in the docket thereof, and at said term of said superior court, began and holden as aforesaid on said 4th Tuesday of September, 1845, and said Bridge Company objected to any proceedings thereon, but said objections having been overruled by said court, said Railroad Company and said Bridge Company respectively appeared, and were fully heard in respect to said application; and said court upon said hearing, having inquired into the facts, and allegations, and statements, set forth and contained in said application, found the same true, so far forth as the same appear by said finding of said court thereon, and hereunto annexed, marked D, to have been found to be true. And thereupon said court granted the prayer of said application, and appointed Bennett Bronson, Ebenezer Learned, and Origen S. Seymour, three judicious and disinterested freeholders, to assess, in pursuance of the provisions of the charter of said Railroad Company, and the several amendments thereto, all damage arising to said Bridge Company by taking said lands and premises described in said application, and upon which said road was so laid out and located as aforesaid, and by the location of their said road thereon, as by said finding of said court upon said application, and the appointment, order, sentence, and decree of said court thereon, a copy of which is annexed as aforesaid, and marked D, may more fully and at large appear. And the said respondents aver, that each, all, and every, of the facts and statements set forth and contained in said finding, and found by said court, were and are true. And the respondents further aver and state, that after said appointment, said Bronson, Learned, and Seymour, as such freeholders, after having been first duly sworn to the

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performance of their said duties, notified the said Bridge Company that they would attend to the duties of their said appointment on said premises, on the 19th day of November, 1845, at 12 o'clock, noon, which said notice bore date the 4th day of November, 1845.

And further, that the said Bronson, Learned, and Seymour did, as such freeholders, in pursuance of said notice and the powers conferred upon them by said appointment and the charter of said Railroad Company, and the several amendments and additions thereto, meet at said time and place, and said Railroad Company and said Bridge Company respectively appeared; and said freeholders, after having carefully viewed and examined said premises, and fully heard said parties, and inquired into the extent of said damages, did assess the just damages done to said Bridge Company by said Railroad Company, in taking said land and premises, and by the location of their said road thereon; and for all the injury and damage of every kind and description, by said Railroad Company to said Bridge Company, in any manner whatsoever thereby done, or to be done, at the sum of three hundred and fifty dollars; of which said sum of $350, the sum of $25 thereof was for injury or damage done to the franchise of said Bridge Company prior to the time of said assessment, and was by the said freeholders included therein by the consent and at the request of said Railroad Company; and which said assessment said freeholders made in writing, under their hands, bearing date the 21st day of November, 1845; and thereupon afterwards, viz., on said 21st day of November, 1845, returned the same to the clerk of said superior court, according to the provisions and requirements of said charter of said Railroad Company and the several amendments and additions thereto, and the duties of their said appointment, and said clerk thereupon recorded the same; a copy of which said assessment is hereunto annexed, marked E, and to which reference is had for all the facts appearing therein.

And said respondents would further aver and state, that after said assessment had been so made, returned, and recorded as aforesaid, and within sixty days next after the same was so made and returned, viz., on the 27th day of December, A. D. 1845, the said Railroad Company, at said Hartford, offered and tendered to said Bridge Company the said sum of three hundred and fifty dollars, being the full amount of said assessment to said Bridge Company for said damages as aforesaid; and also, thereafter, on said day, offered and tendered to said Bridge Company the sum of $325, and also the sum of $25, each being part and parcel of said sum of $350, so assessed and tendered as aforesaid; and said Bridge Company, then and there declined and refused, and have ever since declined and refused, to accept and receive said moneys, or any of said moneys, or any part thereof; and said respondents have ever since had, and still have, said moneys so offered and tendered to said Bridge Company, and now have the same ready in court to be paid to said Bridge Company.

And said respondents further aver and state, that said lands and premises in said application described as aforesaid, and for which, and for

the taking of which, and for the location of their said road thereon, across said river, said damages were assessed as aforesaid, is the same, and not other or different, upon which said railroad was laid out and located as aforesaid, and upon which said railroad has been constructed, and said bridge of said railroad has been built and erected; and that said railroad has been laid out, located, and said land and premises taken, and the damages arising to said Bridge Company by reason thereof assessed, made, returned and recorded, in all respects pursuant to the provisions and requirements of said charter of said Railroad Company, and the several additions and amendments thereto.

And said respondents pray this court, upon finding the facts, allegations, and averments here in this answer contained and set forth true, to dismiss the bill of said Bridge Company, with costs, or grant such other or further relief as to justice and equity may appertain.

C.

Application for appointment of appraisers.

To the hon. superior court, to be holden at Hartford, within and for the county of Hartford, on the 4th Tuesday of September, A. D. 1845.

The application of the Hartford and New Haven Railroad Company humbly sheweth:

That in pursuance of their charter and its several amendments, said company have surveyed, staked out a center line, and located a part of the extension of their railroad upon, over, and across Connecticut river, and the land covered thereby, between the north line of Enfield and the south line of Windsor, from a point on the bank of said river, recently owned by Elizabeth Parmalee and others, and now by said Railroad Company, on the western side of said river, in the town of Suffield, to a point on the eastern bank of said river, recently owned by Horace Hawkins, and now by said Railroad Company, on the eastern side of said river, in the town of Enfield, in said county; and also upon, over, and across a certain other piece of land, situated in said Enfield, owned by the "Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield," a corporation duly incorporated by the Legislature of this State, and having an office and usual place of doing business in said Enfield, and have submitted said location of said road to the commissioners upon said road, appointed by the General Assembly, under said charter of said Railroad Company; and said Railroad Company, by its directors and said commissioners, notified the said Bridge Company, that said road had been located upon, over, and across said river, and the land covered thereby as aforesaid, and said land of said Bridge Company, and that the same and said land covered thereby, and said land of said Bridge Company, had been taken therefor, and that they should appear, if they had any objections to make to said location, before said commissioners, at the depot of said company, in the city of Hartford, in said county, upon the 29th day of September, A. D. 1843, and be heard regarding the same.

And said commissioners met on said 29th day of September, A. D. 1843, at said depot, and by adjournment on divers days after said day, until the 11th day of October, A. D. 1843, and fully heard said Bridge Company, and all persons who appeared before them to object to said location in part as aforesaid; and on said day last aforesaid said commissioners did approve of said location, and did establish the same. And the said company have surveyed, staked out, and located the centre line of their railroad upon and across the land of said Bridge Company; and have taken of their said land, lying in the town of Enfield, in said county, two rods in width on each side of said centre line, upon and across one piece of said land, which is bounded northerly on highway from the bridge of said Bridge Company to said Enfield, and southerly on land of Norman Allen, and now occupied by said Railroad Company for their said road, and easterly and westerly on other land of said Bridge Company, and being in length one hundred feet, more or less, and of the width aforesaid, and containing about 6½ rods; and have also surveyed, staked out, and located the centre line of their railroad upon, over, and across said river, and the land covered thereby between the points aforesaid, and have taken of the land covered by said river, between the western and eastern banks thereof, three rods in width on each side of said centre line, upon, over, and across said river, and the land covered thereby; which said piece, so taken, is bounded easterly by the eastern bank of said river, westerly on the western bank of said river, northerly and southerly on other lands covered by said river; and being in length 1,500 feet, more or less, and of the width aforesaid. That part of said land so taken, situated westerly of the line dividing the town of Enfield from the town of Suffield, lying in said town of Suffield, and that part thereof, if any, situated easterly of said divisional line, lying in said town of Enfield; the rights, privileges, and interests of said Bridge Company in said land so taken, covered by said river, claim thereto, or therein, or control over the same, being by virtue of the provisions contained in the charter of said Bridge Company, and the several amendments and additions thereto, copies of which are hereunto annexed, marked A.

And the said Railroad Company notified the said Bridge Company that they had taken said lands for their railroad, on the 17th day of June, A. D. 1844, and on divers other days and times since said 17th day of June, A. D. 1844, when they endeavored to agree with said Bridge Company for the amount of damage done to them by taking said lands, and were unable to agree with them therefor.

Whereupon, in pursuance of their said charter, and the several amendments thereto, said Railroad Company make this their application to the said superior court for the appointment of three disinterested and judicious freeholders to assess the damages done to said Bridge Company by taking said lands as aforesaid, and pray this court to appoint such freeholders, or in some other way grant relief.

Dated at Hartford, the 11th day of September, A. D. 1845.

The Hartford and New Haven Railroad Company, by their attorneys,

HUNGERFORD & CONE.

To the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, a corporation duly incorporated by the Legislature of this State, having an office, and usual place of doing business, in the town of Enfield, in the county of Hartford, greeting:

You are hereby notified, that the foregoing application has been made, and will be presented to the superior court, in and for said county, to be holden on the 4th Tuesday of September, A. D. 1845, then to be heard by said court, when and where you are hereby summoned to appear, if you see cause; and show reasons, if any you have, why said application should not be heard and granted.

Dated at Hartford, this 11th day of Sept., A. D. 1845.

To any indifferent person, or proper officer, to serve and return.

FRANCIS FELLOWS,
Justice of peace.

D.

HARTFORD COUNTY,
Sup. court, September term, A. D. 1845.

Upon the application of the Hartford and New Haven Railroad Company, showing to this court that, in pursuance of their charter, and its several amendments, said Railroad Company have surveyed, staked out a centre line, and located a part of the extension of their railroad upon, over, and across Connecticut river, and the land covered thereby, between the north line of Enfield and the south line of Windsor, from a point on the bank of said river, recently owned by Elizabeth Parmalee and others, and now by said Railroad Company, on the western side of said river, in the town of Suffield, to a point on the eastern bank of said river, recently owned by Horace Hawkins, and now by said Railroad Company, on the eastern side of said river, in the town of Enfield, in said county; and also upon, over, and across a certain other piece of land, situated in said Enfield, owned by the "Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield," a corporation duly incorporated by the Legislature of this State, having an office, and usual place of doing business in said Enfield; and have submitted said location of said road to the commissioners upon said road, appointed by the General Assembly, under said charter of said Railroad Company, and that said Railroad Company, by its directors and said commissioners, notified the said Bridge Company that said road had been located upon, over, and across said river, and the land covered thereby as aforesaid, and said land of said Bridge Company; and that the same, and said land covered thereby, and said land of said Bridge Company, had been taken therefor, and that they should appear, if they had any objections to make to said location, before said commissioners, at the depot of said Railroad Company, in the city of Hartford, in said county, upon the 29th day of September, A. D. 1843, and be heard regarding the same; and that said commissioners met on said 29th day of September, 1843, at said depot, and by adjournment

on divers days after said day, until the 11th day of October, A. D. 1843, and fully heard said Bridge Company, and all persons who appeared before them to object to said location in part as aforesaid; and that on said day last aforesaid said commissioners did approve of said location, and did establish the same. And further shewing, that said company have surveyed, staked out, and located the centre line of their railroad, upon and across the land of the said Bridge Company, and have taken of their said land, lying in the town of Enfield, in said county, two rods in width on each side of said centre line, upon and across one piece of said land, which is bounded northerly on highway from the bridge of said Bridge Company to said Enfield, and southerly on land of Norman Allen, and now occupied by said Railroad Company for their said road, and easterly and westerly on other land of said Bridge Company, and being in length one hundred feet, more or less, and of the width aforesaid, and containing about 6½ rods; and also that said Railroad Company have surveyed, staked out, and located the centre line of their railroad, upon, over, and across said river, and the land covered thereby, between the points aforesaid, and have taken of the land covered by said river, between the western and eastern banks thereof, three rods in width on each side of said centre line, upon, over, and across said river, and the land covered thereby, which said piece so taken, is bounded easterly by the eastern bank of said river, westerly on the western bank of said river, and northerly and southerly on other lands covered by said river, and being in length 1,500 feet, more or less, and of the width aforesaid; that part of said land so taken, situated westerly of the line dividing the town of Enfield from the town of Suffield, lying in said town of Suffield, and that part thereof, if any, situated easterly of said divisional line, lying in said town of Enfield; the right, privileges, and interest of said Bridge Company, in said land so taken, covered by said river, claim thereto, or therein, or control over the same, being by virtue of the provisions contained in the charter of said Bridge Company, and the several amendments and additions thereto, copies of which are annexed, marked A.

And further shewing that said Railroad Company notified the said Bridge Company that they had taken said lands for their railroad, on the 17th day of June, A. D. 1844, and on divers other days and times since the said 17th day of June, A. D. 1844, when they endeavored to agree with said Bridge Company for the amount of damages done to them by taking said lands, and were unable to agree with them therefor, and praying for the appointment of three disinterested and judicious freeholders, pursuant to the provisions of the charter of said Railroad Company, and the several amendments thereto, to assess the damages done to said Bridge Company, by taking said lands as aforesaid, as per petition on file, dated the 11th day of September, A. D. 1845, may more fully and at large appear.

Said petition was brought to this present term of said superior court, duly and legally served upon said Bridge Company, respondents therein, returned to said court, and entered in the docket thereof; and now said

petitioners, by their attorneys, Hungerford & Cone, appear, and said respondents, by their attorneys, Ellsworth and Perkins, also appear, and were fully heard thereon; and said court having inquired into the facts and allegations set forth and contained in said petition, find the same true, except as hereinafter appears; and that said road hath been surveyed, staked out, and located pursuant to the provisions of the charter of said Railroad Company, and that said lands, and the said rights, privileges, interest, claims, or control of said Bridge Company in, to, over, and across the same, taken in all respects (so far as shown by the votes and doings of said Railroad Company, and the directors thereof, and commissioners thereon, copies of which are hereunto annexed, marked B,) in pursuance of the provisions of the charter of said Railroad Company, and the several amendments and additions thereto. And thereupon this court doth grant the prayer of said petition, and by and with the consent and agreement of said parties to said petition, said parties having agreed to, and having waived any and all objection to the appointment of Bennet Bronson, Ebenezer Learned, and Origen S. Seymour, by reason of interest, or the want of any of the qualifications required by the charter of said Railroad Company, doth appoint the said Bennet Bronson, Ebenezer Learned, and Origen S. Seymour, three judicious and disinterested freeholders, to assess, in pursuance of the provisions of the charter of said Railroad Company, and the several amendments thereto, all damages arising to said Bridge Company by taking said land, &c., aforesaid.

B.

At a meeting of the board of directors of the Hartford and New Haven Railroad Company, held at the office of the company, September 23, 1843.

"R. S. Van Rensselaer, chief engineer for the extension of the railroad of this company, having this day submitted a report, definitely locating that part of the route of said road which lies between a stake or boundary marked and numbered 295.50, on the land of Martin Barber and Edwin Barber, in the town of Windsor, to the north line of the State of Connecticut." Thereupon voted, "that said report be accepted, and that this board hereby adopts the definite location of so much of the said extended railroad as is described in said report as a part of the line, road, course or way, and which definite location is in the words and figures following, viz:

"Beginning at a stake marked 'L' 295.50, on land, &c., &c., &c.

* * * * * * *

Thence curving easterly 115° 50′, and westerly 23° 24′, to a stake No. 715.60, on the west bank of the Connecticut river, in the town of Suffield; thence straight 582°. E, crossing the river to a stake No. 731.46, on the east bank of the Connecticut river, in the town of Enfield, and on land of Horace Hopkins, &c., &c., &c. * *

The foregoing is a description of the line as surveyed and staked out, and exhibited on the maps of the company, with stations 100 feet apart.

The width of the land taken for said railroad is six rods from stake

No. 680, on and across lands of Wm. Porter, jr., John Moran, Corning Fisk, Elizabeth Parmalee, and Connecticut River Company, to a stake No. 731. * * *

Commissioners' Report. B.

The subscribers, appointed by the legislature of the State of Connecticut, commissioners of the Hartford and New Haven Railroad Company, under and in pursuance of the charter of said company, and the several amendments thereof, and additions thereto, and acting in said capacity, and having had submitted to us, as said commissioners, a location of a part of the extension of said railroad, made by the directors of said company, on the 23d day of September, A. D. 1843, which location said directors then made as the line, road, course, or way whereon to construct said extension of the railroad or way, and which location was in the words and figures following, viz: * * * *

And we, the said commissioners, having united with said directors, and issued a notice to all and singular the persons and corporations whose lands are taken by said company, and by said location of said road, or who are in any way interested in the lands taken by said company, and by said location, to appear before us, and make all such objections as they have to make to said location, and said notice having been duly served upon all the persons. (The commissioners met and adjourned, and heard the parties, &c.)

We do now, on this 11th day of October, 1843, approve of said location, so as aforesaid made by said directors and said company, and by them submitted to us for our approbation; and do establish the same as the location of a part of the extended road of said company, and as the line, road, course, or way whereon to construct said railroad or way, according to the charter of said company, and the amendments thereof, and additions thereto.

At a meeting held by the board, October 31st, 1843, it was voted, that this company hereby take for their railroad, of the various persons named on the location maps, filed in the office of the company, and lettered, "Location Map, Extension R. Road," by the chief engineer, the several widths and quantities of land on each side of the centre line of said railroad, which are described and delineated on said location maps, which said maps delineate and describe, by lines parallel to or equi-distant from said centre line, the width of the roadway of said railroad, and on the outside of said roadway delineate and describe the further quantities which are necessary to this company for cuttings and embankments, and for obtaining stone and gravel, in *in* order to the proper construction and security of said road, said location maps are hereby made a part of the files and records of this company.

Meeting adjourned. Approved November 8th.

Signed, Attest, H. FITCH, *Secretary*.

E.

HARTFORD and New Haven Railroad Company,
vs.
THE COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield.

Whereas, the superior court holden at Hartford, within and for the county of Hartford, on the fourth Tuesday of September, A. D. 1845, appointed the subscribers, disinterested and judicious freeholders, to assess the damages done to the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, a corporation duly incorporated by the legislature of the State of Connecticut, and having a toll house and usual place of business in Enfield, in the county of Hartford, by the Hartford and New Haven Railroad Company, in taking certain lands owned by said Bridge Company, or in which said Bridge Company has some right, privilege, or interest, or some claim thereto or therein, or control over the same, lying in said Enfield in part, and partly in Suffield, in said county, which said company have taken according to their charter and the several amendments thereto—as by the application of said Railroad Company against said Bridge Company, dated the eleventh day of September, A. D. 1845, on the files of said court, and by the appointment, order, and decree of said court upon said application, more fully and at large appears.

And whereas we, the said freeholders, having been first duly sworn to perform said duties, gave notice to said Enfield Bridge Company that we would attend to the business of our said appointment, upon said premises in said application and notice first described, on the nineteenth day of November, A. D. 1845, at eleven o'clock in the forenoon, and upon said premises in said application and notice second described, on said 19th day of November, at 12 o'clock, noon; which notice bore date the fourth day of November, 1845, and was duly served upon the said Bridge Company, as by said original notice, and the endorsement of service thereon, more fully appears.

Now, therefore, we, the subscribers, freeholders as aforesaid, under oath, having in pursuance of said notice and the powers conferred upon us by said appointment, and the charter of said company, and the several amendments thereto, carefully viewed and examined said premises, and fully heard the parties, the said Railroad Company, by Hungerford and Cone, their attorneys, and said Bridge Company, by their attorneys, Ellsworth and Perkins, and inquired into the extent of said damages, do assess the just damages done to said Bridge Company by said company in taking said piece of land in said application first described, and of the width as therein described—the said width having been by the directors of said Railroad Company definitely fixed and established as the width of their said railroad over and across said piece—and for all other injury and damages of every kind and description by said Railroad Company to said Bridge Company in anywise thereby done, or to be done, at the sum of fifty dollars; and do also assess the just damages

done to said Bridge Company by said Railroad Company in taking said piece of land in said application second described, and of the width as therein described—the said width having been by the directors of said Railroad Company definitely fixed and established as the width of their said railroad over and across said piece—and for all other injury and damage of every kind and description by said Railroad Company to said Bridge Company, in any way or manner whatsoever, thereby done, or to be done, at the sum of three hundred and fifty dollars; which said several assessments so by us made as aforesaid amount in the whole to the sum of four hundred dollars; which said sum of three hundred and fifty dollars is assessed for the injury done to the franchise of said Bridge Company, under a protest from said Bridge Company, and upon objection by them made against the power of the appraisers to assess damages for such injury, and twenty-five dollars of said three hundred and fifty dollars is given for the injury done to the franchise of said Bridge Company prior to the time of this appraisal, and is included by the consent and at the request of said Railroad Company. And we do make this our assessment in writing under our hands, and return the same to the clerk of said superior court, according to the provisions of said charter and the several amendments thereto, and the duties of our said appointment, on this 21st day of November, A. D. 1845.

BENNET BRONSON,
EBENEZER LEARNED,
ORIGEN S. SEYMOUR,
Freeholders under oath.

Hartford county sup. court. January term, 1846.

THE COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
THE HARTFORD and NEW HAVEN Railroad Company.

In the above entitled cause, the petitioners in court move that the court order the issuing of an injunction against the respondents, as prayed for in their said petition.

Whereupon the respondents file their supplemental answer, by leave of said court—and said court having inquired into the facts, averments, and statements contained, set forth, and referred to in the said respondents' said supplemental answer, find:

That said respondents surveyed, staked out, and located a centre line for their railroad, as set forth in their supplemental answer, and laid out their said railroad six rods wide, and definitely located the same thereon; that said respondents, as in said answer set forth by their said directors, on said 23d day of September, 1843, adopted said line, laying out, and location, as the definite location of that part of the line, course, road, or way whereon to construct their railroad; that after the same were so adopted, the said line, laying out, and location were submitted to Wm.

H. Ellis, Wm. Field, and Hugh P. Welch, the commissioners on said railroad, for their approval; that said Ellis, Field, and Welch were, by the legislature of the State of Connecticut, appointed commissioners on said road; that said commissioners had no interest in said railroad, and were such commissioners duly qualified, at the time said line, laying out, and location were submitted to them as aforesaid, and so continued until and long after their approval and establishment of the same, as herein after found.

That said respondents, by their directors and said commissioners, notified said Bridge Company that said railroad had been located upon, over, and across said river, and the land covered thereby as aforesaid, and that the same had been taken whereon to construct said railroad or way, and that said Bridge Company should appear before said commissioners at the depot of said Railroad Company, in the city of Hartford, on the 29th day of September, 1843, and make all such objections as they had to make to said location. That said commissioners met, on said 29th day of September, 1843, at said depot, and by adjournment from said 29th day of September, on divers days after said day, until the 11th day of October, 1843; that said Bridge Company appeared before said commissioners, and objected to said location, and were by said commissioners fully heard in respect thereto; that afterwards, on said 11th day of October, 1843, said commissioners did approve and establish said definite location so submitted to them, as the line, course, road, or way whereon to construct said railroad or way, in all respects pursuant to the requirements and provisions of said charter of said Railroad Company, and the several amendments and additions thereto. That the said location is the same upon which said court, in their finding upon the original bill of the said petitioners, found that said Railroad Company were engaged in erecting their said bridge, and have since completed the same, as found by said court in their finding upon said petitioner's supplemental bill.

That said respondents made their application to the supreme court, pursuant to the provisions of the charter of said Railroad Company, and the several amendments and additions thereto, against said Bridge Company, for the appointment of three judicious and disinterested freeholders, to assess the damages done to said Bridge Company by reason of taking the aforesaid land and premises, as described and set forth in said application, over and upon which said railroad had been so laid out and located as aforesaid, and by the location of their said road thereon, as set forth in said answer, and shewn by said copy of said application thereto annexed, and marked C. That said application was duly served upon said Bridge Company, returned to said court to which the same was made returnable, and entered in the docket thereof.

That said Bridge Company and said Railroad Company respectively appeared, and said Bridge Company having objected to any proceedings thereon, and said objection having been overruled by said court, said parties were fully heard in respect to said application, and said court thereupon found the facts and allegations set forth and contained there-

in true, so far forth as the same appear by said finding of said court thereon, and to the respondent's supplemental answer annexed, and marked D, to have been found to be true. And said court thereupon granted the prayer of said application, and appointed Bennett Bronson, Ebenezer Learned, and Origen S. Seymour, three judicious and disinterested freeholders, to assess all damages arising to said Bridge Company by taking said lands and premises upon which said railroad was so laid out and located as aforesaid, and which had been taken thereby, and by the location of their said road thereon, as in said application set forth, and found by said finding as aforesaid.

And this court doth further find, that each, all, and every of the statements, facts, and averments, contained and set forth in said application to said superior court, were and are true, so far as shewn by the documents, or any of them, referred to in this case and made part of the same; and further, that, after said appointment, said Bronson, Learned, and Seymour were, as such freeholders, duly sworn to the performance of their said duties, and thereafter gave notice to said Bridge Company of the time and place of their meeting on the business of their said appointment, as set forth in the respondents' supplemental answer.

And that the said freeholders met, in their said capacity, in pursuance of said notice, and the powers conferred upon them by said appointment, and the charter of said Railroad Company, and the several additions and amendments thereto; at which time and place the said Railroad Company and said Bridge Company respectively appeared before said freeholders, and said freeholders proceeded to and fully heard said parties, carefully viewed and examined said premises, and inquired into the extent of said damages, and assessed the just damages done to said Bridge Company by said Railroad Company, in taking the aforesaid lands and premises and by the location of their said road thereon as aforesaid, and for all other injury and damage, of every kind and description, by said Railroad Company to said Bridge Company, in any manner whatsoever thereby done, or to be done, at the sum of three hundred and fifty dollars; that $25 dollars thereof was assessed for injury or damage done to said Bridge Company prior to said assessment, and included therein at the request and by consent of said Railroad Company; that said freeholders made their said assessment in writing, under their hands, bearing date the 21st day of November, 1845, and, on said 21st day of said November, 1845, returned the same to the clerk of said superior court, all pursuant to the provisions and requirements of said charter of said Railroad Company, and the several amendments and additions thereto, and the duties of their said appointment, and that said clerk thereupon recorded the same, a copy of which said assessment is to said answer annexed, marked E, and to which reference is had for all the facts appearing therein; and said court doth further find that, after said assessment had been so made, returned, and recorded as aforesaid, and within sixty days next after the same was so made and returned to said clerk as aforesaid, viz., on the 27th day of December, 1845, the said Railroad Company, at said Hartford, offered and tendered to said Bridge Company the said sum of three hundred and fifty

dollars, and also on said day offered and tendered to said Bridge Company the sum of $325, and the sum of $25. each being part and parcel of said sum of $350 so tendered as aforesaid, and that the said sums so tendered were tendered on account of said assessment, and was the full amount of said assessment to said Bridge Company for said damages as aforesaid.

That said Bridge Company then and there declined and refused, and have ever since declined and refused, to accept and receive the same or any part thereof; and that said Railroad Company have ever since had, and still have, said money so offered and tendered to said Bridge Company to pay, and now have the same here ready in court to be paid, to said Bridge Company.

And said court doth further find, that said land and premises, in said application described, and for the taking of which and the location of their road thereon said damages were so assessed as aforesaid, are the same, and not other or different, upon which said railroad was laid out and located as aforesaid, and which was taken thereby, and upon which said railroad has been constructed, and said bridge of said railroad built and erected.

And said court doth further find, that said railroad has been laid out, located, and said land and premises taken thereby, and said damages arising to said Bridge Company by reason thereof assessed, and said assessment thereof made, returned, and recorded in all respects pursuant to the provisions and requirements of said charter of said Railroad Company, and the several additions and amendments thereto, so far, and to the extent herein before found and shewn by the documents, or any of them, referred to in or annexed to the petitioners' bill, or bill supplemental thereto, or the respondents' cross bill and answer, or this present answer, or any of the findings of the superior court thereon, or upon any or either of them.

The court reserves, for the advice of the supreme court of errors, next to be holden at Hartford, within and for the county of Hartford, on the second Tuesday of June, 1846, the question what judgment shall be entered in said cause.

A true copy of the supplemental answer, and of such parts of the documents connected therewith as are regarded as material by the counsel engaged in the case; and also of the finding of the court thereon. CHAUNCEY HOWARD, *Clerk.*

Charter of the Hartford and New Haven Railroad Company, with amendments: also, Charters of the Hartford and Springfield Railroad Company, from the States of Connecticut and Massachusetts.

CHARTER.

At a General Assembly of the State of Connecticut, holden at Hartford, in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and thirty-three.

Upon the petition of James Brewster and others, praying for the incorporation of a company to construct a railroad between the cities of Hartford and New Haven.

1st. Resolved by this Assembly, That James Brewster, John Babcock, John S. Mitchell, Joel Root, Alexander Harrison, Obadiah Pease, Richard Hubbard, Elisha A. Cowles, with such other persons as shall associate with them for that purpose, are constituted a body politic and corporate, by the name of the Hartford and New Haven Railroad Company, and by that name to sue and be sued, plead and be impleaded, in any court in this State; to make and have a common seal, and the same to break, alter, or renew at pleasure; and the company is hereby vested with all powers, privileges, and immunities, which are or may be necessary to carry into effect the purposes and objects of this act, as hereinafter set forth: and said company is hereby authorized and empowered to locate, construct, and finally complete, a single, double, or treble railroad or way, from some suitable point in the town of Hartford, by the most direct and feasible route to the city of New Haven, and to the navigable waters of New Haven harbor, at some point between the canal basin and the west end of Tomlinson's bridge, so called; and to transport, take, and carry property and persons upon said railroad or way, by the power and force of steam, of animals, or of any mechanical or other power, or any combination of them which said company may choose to apply.

And for the purpose of constructing said railroad or way the said company is hereby authorized to lay out their road not exceeding six rods wide through the whole length, and for the purpose of cuttings and embankments, and for obtaining stone and gravel, may take as much more land as may be necessary for the proper construction and security of said road, provided that all damages that may be occasioned to any person or corporation, by the taking of such lands or materials for the purpose aforesaid, shall be paid for by said company in a manner hereinafter provided; and further provided, that no part of said railroad or way shall be located or constructed within the limits of the city of Hartford, except with the consent of said mayor, aldermen, common council, and freemen of the city, and upon such terms and conditions as said mayor, aldermen, common council, and freemen, and said railroad corporation, shall mutually agree.

2d. Resolved further, That the capital stock of said company shall be five hundred thousand dollars, with the privilege of increasing the same to one million of dollars; and to be divided into shares of one hundred dollars each, which shares shall be deemed personal property, and be transferable in such manner as the by-laws of said company shall direct.

3d. Resolved further, That the persons named in the first section hereof, or a majority of them, shall open books to receive subscriptions to the capital stock of said company, at such time and place as they o a majority of them may appoint, and shall give such notice of the times and places of opening the books as they may deem reasonable, and shall receive said subscriptions under such regulations as they may adopt for the purpose; and, if more than five thousand shares of stock shall be subscribed, they shall have power to make the shares so sub-

scribed the capital stock of the company, provided they shall not exceed ten thousand shares; and in case the subscriptions shall exceed ten thousand shares, the same shall be reduced and apportioned in such manner as may be deemed most beneficial to the corporation.

4th. Resolved further, That the immediate government and direction of the affairs of the company shall be vested in a board of seven directors, who shall be chosen by the stockholders of said company in the manner hereinafter provided, and shall hold their offices until others are duly elected and qualified to take their places as directors; and the said directors, a majority of whom shall be a quorum for the transaction of business, shall elect one of their members to be president of the board, who shall also be president of said company; they shall also choose a clerk and treasurer, and the treasurer so chosen by them shall give bonds with security to said company, in such sum as the said directors may require, for the faithful discharge of his trust.

5th. Resolved further, That the persons named in the first section hereof are hereby authorized, after the books of subscription to the capital stock of said company are closed, to call the first meeting of the stockholders of said company in such way and at such time and place as they may appoint, for the choice of directors of said company; and in all meetings of the stockholders of said company each share shall entitle the holder thereof to one vote, which vote may be given by said stockholders in person or by lawful proxy; and the annual meeting of the stockholders of said company, for the choice of directors, shall be holden at such time and place, and upon such notice, as the said company in their by-laws may prescribe.

6th. Resolved further, That in case it shall so happen that an election of directors should not be made on any day appointed by the by-laws of said company, such company shall not for that cause be deemed to be dissolved, but such election may be held on any day which shall be appointed by the directors of said company.

7th. Resolved further, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations, as they shall deem needful and proper, touching the disposition and management of the stock, property, estate, and effects of said company, the transfer of shares, the duties and conduct of their officers and servants, touching the election and meetings of the directors, and all matters whatsoever which may appertain to the concerns of said company. Said company is also hereby empowered to purchase, receive, and hold such real estate as may be necessary and convenient in accomplishing the object for which this incorporation is granted; and may, by their agents, surveyors, engineers, and servants, enter upon such route or places to be designated by their directors, and approved by three commissioners to be appointed by the General Assembly for that purpose, who shall have no interest in said railroad, after notice to the persons whose lands or estate may have been taken, and after having all objections which may by such persons be made to the location made by the directors as to the line, road, course, or way whereon to construct said railroad or way;

and it shall be lawful for said company to enter upon and use all such lands and real estate as may be necessary for them, in the manner and for the purposes set forth in the first section hereof; and said company shall be holden to pay all damages that may arise to any person or persons; and if the person or persons to whom damage may so arise, and said company, cannot agree as to the amount of such damages, it shall be the duty of said company to apply to the superior court of the county in which the real estate damaged may be situated, and thereupon said superior court shall appoint three disinterested and judicious freeholders to assess the amount of such damage, and said freeholders, after being sworn, shall give notice to the parties of the time and place of their meeting on the business of their appointment, at which time and place they shall proceed to hear the parties, and to inquire into the extent of the damages, and shall assess just damages to the person or persons whose real estate may be taken or injured, taking into consideration any benefit or advantage which may result to such person or persons from said railroad, which assessment may be in writing, under the hands of said freeholders; and the same shall be returned to the clerk of said superior court, who shall record it; and when so returned and recorded, such assessment shall have the effect of a judgment, and execution may issue, at the end of sixty days from the time when such assessment shall be so returned, in favor of the persons respectively to whom damage may be assessed for the amounts so to them assessed: Provided, that said railroad shall not be worked upon or opened across the land of any person, until the damages assessed to such persons shall have been paid, or secured to be paid, to his satisfaction, and that the said damages shall be paid within sixty days after the same shall have been finally determined.

8th. Resolved further, That, when the lands or other property or estate of any *feme covert*, infant, or person *non compos mentis*, shall be necessary for the construction of said railroad, the husband of such *feme covert*, and the guardian of such infant or person *non compos mentis*, may release all damages for any lands or estates taken and appropriated as aforesaid, as they might do if the same were holden in their own right respectively.

9th. Resolved further, That said company is hereby authorized to construct, erect, build, make, and use, a single, double, or treble railroad or way, of suitable width and dimensions, to be determined by the directors of said company, on the line or course by them designated; and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken, and carried on the same; and shall have power to erect and maintain toll-houses, and other buildings, for the accommodation of their concerns, as they may deem suitable for their interest.

10th. Resolved further, That whenever it shall be necessary for the construction of their single, double, or treble railroad or way, to intersect or cross any stream of water or water course, or any road or highway, it shall be lawful for said company to construct said railroad across

or upon the same; but the said company shall restore said stream, or water course, or road, or highway, thus intercepted, to its former state, or in a sufficient manner not to impair its usefulness; and said railroad corporation shall constantly maintain in good repair all bridges, with their abutments and embankments, which they may construct for the purpose of constructing their railroad over any river, highway, or private way, or for constructing such highway or private way over said railroad.

11th. Resolved further, That it shall be lawful for the company hereby incorporated, from time to time, to fix, regulate, and receive the tolls and charges by them to be received for transportation of persons or property on the single, double, or treble railroad aforesaid, hereby authorized to be constructed, erected, built, and used, or upon any part thereof, provided that the rates of said tolls and charges shall be fixed annually by said company in the month of March, and shall immediately thereafter be published in at least one newspaper printed in each of the cities of Hartford and New Haven, and the rates aforesaid shall not be raised at any other time during the year.

12th. Resolved further, That if any person shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction, or work of said company, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons so offending shall be deemed guilty of a misdemeanor, and shall forfeit and pay to said corporation double the amount of damages sustained by means of such offence or injury, to be recovered in the name of said corporation, with costs of suit, by action of debt.

13th. Resolved further, That the directors of said company may require the payment of the sum or sums subscribed to the capital stock of said company, at such times, and in such proportions, and upon such conditions, as they may deem fit; and in case any stockholder shall refuse or neglect to make payment pursuant to the requisition of the board of directors, the stock of such stockholders, or so much thereof as shall be necessary, may be sold by the directors of said corporation at public auction, after the lapse of six months from the time when the payment became due; and all surplus money, the avails of such sale, after deducting the payments due, and interest thereof, and the necessary expenses of the sale, shall be paid over to such negligent stockholders.

14th. Resolved further, That the capital stock of said corporation shall be and remain free from taxation, until the profits collected by said railroad corporation shall be sufficient to afford a dividend of five per cent. per annum on the capital stock.

15th. Resolved further, If said company shall not expend the sum of one hundred thousand dollars upon said railroad or way within four years, or if they shall not construct, and complete, and put in operation, a single, double, or treble railroad or way, as herein before authorized, within six years from the passage of this act, then the rights, privileges, and powers of said corporation shall be null and void; and the legisla-

ture shall have the power at all times to authorize the construction of other railroads, to be connected, or to cross the route of this railroad.

16th. Resolved further, That said corporation shall report annually to the legislature of this State the amount of their expenditures on said railroad, and the income and profits arising thereon; which report shall be made by the president and secretary of said corporation under oath.

A true copy of record, examined and certified under the seal of the State.

THOMAS DAY, *Secretary.*

Amendments to the charter of the Hartford and New Haven Railroad Company.

At an extra session of the Legislature, holden December 21st, 1836, upon the petition of the Hartford and New Haven Railroad Company, praying for alterations in their charter—

Resolved by this Assembly, That the board of directors of said company be, and they hereby are, authorized to supply any vacancies that may arise in their number, by death, resignation, or otherwise.

Resolved further, That at the next election of directors, said company be, and they hereby are, authorized to choose nine directors, any four of whom, the president of said company being one of the four, shall constitute a quorum for the transaction of business.

Resolved further, That the directors of said company, after one month delay by any stockholder to pay any future instalment required by said directors, be, and they hereby are, authorized to make sale of such delinquent stockholder's stock, according to the provisions of the charter of said company.

Resolved further, That the foregoing resolutions be and remain a part of the charter of said company.

Certified by

ROYAL R. HINMAN, *Secretary.*

Accepted by the stockholders at their annual meeting, September 6th, 1837.

At a session of the General Assembly, holden first Wednesday in May, 1839, upon the petition of the Hartford and New Haven Railroad Company, praying for alterations in their charter—

Resolved by this Assembly, That it shall be lawful for the directors of said Hartford and New Haven Railroad Company, from time to time, to borrow such sum or sums of money, upon the credit of said company, as to said directors appear necessary and proper for the completion of said work, and also for the purchase of locomotive engines, cars, lands, and the erection of warehouses, workshops, and other necessary buildings; and for securing the repayment of moneys so borrowed, full power and authority is hereby granted to said directors to pledge or hypothecate, by way of bond, with or without seal, mortgage, trust, or otherwise, the railroad by them owned and constructed, or to be constructed under their charter, with all its privileges, appendages, appur-

tenances, implements, and all the property, franchises, and chartered rights of said company; and such pledge, hypothecation, bond, mortgage, and trust, shall be valid for securing the due payment of any sum or sums of money borrowed, with interest thereon accruing, not exceeding the legal rate of interest of the place where said sums may be borrowed, and which the same shall be given to secure.

And in case of default made in the payment of moneys so borrowed and secured, the person or persons, body politic or corporate, their legal representatives, successors, or assigns, claiming under said pledge, hypothecation, bond, mortgage, or trust, may, by due process of law, acquire, have, hold, use, occupy, and enjoy the said road, with its appurtenances, implements, and property of said company, and take and receive the tolls, rents, issues, profits, and advantages thereof, during the continuance of said charter, in as full and ample a manner as the stockholders of said company could or might have had, used, and enjoyed the same; subject, nevertheless, to all the restrictions, limitations, and conditions, contained in the act incorporating said company.

Resolved further, That whenever, previous to the completion of said road, the directors of said company shall find it convenient or necessary to change said road, or discontinue the same, they may by their vote declare what portion of their road convenience or necessity requires should be discontinued, and may thereupon discontinue the same; and may also in like manner designated a new line or course in which said road shall be run; and may thereupon take, by agreement or appraisal, so much land as may be required for said road, not exceeding six rods in width, upon said line or course so designated.

Provided always, That all such changes in said road shall be approved by the commissioners upon said road, and that all damages done to the persons whose lands may be taken, shall be ascertained and paid by said company in the same manner as is provided by the charter for the original location and construction of said road.

And provided also, That no part of said road within the limits of the city of Hartford shall be discontinued or changed without the consent of the mayor, aldermen, common council, and freemen of said city; and upon such terms and conditions as said mayor, aldermen, common council, and freemen, and said railroad corporation shall mutually agree.

And provided further, That the power hereby granted shall not be extended to so much of said road as lies between the limits of the city of Hartford and of the town of Hartford.

It being expressly understood and declared, that nothing in these resolutions contained shall be construed to confirm or validate any irregular or illegal proceedings of said company in laying out said road, or in taking the lands over which the same or any part thereof has been located or constructed.

Nor shall the above resolutions be construed to imply that the powers therein granted are not conferred by the charter of said company, or that said company have not proceeded regularly and legally under the same.

The following was also passed at the same session.

Resolved by this assembly, That the Hartford and New Haven Railroad Company be, and they hereby are, authorized to procure, charter, or purchase, and hold such number of steamboats, to be used in connection with their road, as they may deem expedient, to an amount not exceeding two hundred thousand dollars, and may for that purpose increase their capital stock to the same amount.

Certified by

R. R. HINMAN, *Secretary*.

Accepted by the stockholders at their annual meeting, September 4th, 1839.

At a special session of the legislature, holden October 25th, 1842—

Resolved by the Senate and House of Representatives in General Assembly convened; 1st. That the Hartford and New Haven Railroad Company be, and they hereby are, authorized and empowered to extend their railroad from the depot in the city of Hartford to the north line of the State, and with the consent of Massachusetts from thence to the town of Springfield, Massachusetts, by the most direct and feasible route; and for this purpose the said company, acting by its directors, are hereby authorized to increase their capital stock by an addition thereto of not more than five thousand shares.

2d. Resolved further, That in extending their railroad as aforesaid said company shall continue to enjoy all the powers granted to them by their charter, and the several amendments thereof, except exemption from taxation, which exemption shall not apply to the new stock raised by these resolutions. And that all the provisions of the charter of the Hartford and Springfield Railroad Company, and the several amendments thereof, and additions thereto, shall be extended to the Hartford and New Haven Railroad Company, as if the same were additions to the charter of said last named company, to enable them to extend their road as aforesaid, except so far as modified by these resolutions. Provided, however, that before the said Hartford and New Haven Railroad Company shall commence the construction of their said extended railroad, the said company shall pay all reasonable expenses and charges for cash disbursed, or time and labor bestowed in procuring said charter of the Hartford and Springfield Railroad Company, or in making surveys and estimates, or in performing labor, in order to obtain subscriptions to the stock, and procure the organization of said company; and that all surveys, field books, maps, estimates, and other similar assets belonging to the commissioners of said road, or their agents respectively, shall become the property of said Hartfort and New Haven Railroad Company; and if the parties cannot agree as to the matters contained in this proviso, the commissioners on said last named road shall adjust and determine the same.

Provided further, That said railroad shall be continued from the depot in Hartford, within the western boundary of said city, to its intersection with Asylum street.

Provided lastly, That said extended road shall be completed and in running order by the first day of January, A. D. 1845.

These resolutions shall not take effect until they are appproved by the stockholders of said Hartford and New Haven Railroad Company, at a meeting specially called for that purpose, and said company shall not commence the construction of their extended road until they have increased their capital by an addition of at least two thousand shares of new stock.

These resolutions shall at all times be subject to alteration, amendment, or repeal, by the General Assembly.

Certified by NOAH A. PHELPS,
Secretary of State.

Accepted at a special meeting of stockholders, at Hartford, Dec. 8th, 1842.

Charter, by the State of Connecticut, of the Hartford and Springfield Railroad Company.

At a General Assembly of the State of Connecticut, holden at Hartford in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and thirty-five, upon the petition of the Hartford and New Haven Railroad Company, and the petition of David Ames and others, praying for liberty to lay out and construct a railroad as per petition on file.

1st. Resolved by this Assembly, That the persons named in the first section of the act incorporating the Hartford and New Haven Railroad Company, together with such other persons as they may associate with them for that purpose, be, and they are hereby, constituted a body politic and corporate, by the name of the Hartford and Springfield Railroad Company, and by that name to sue and be sued, plead and be impleaded, in any court in this State, to make and have a common seal, and the same to break, alter, or renew at pleasure; and said company are hereby vested with all powers, privileges, and immunities, which are or may be necessary to carry into effect the purposes and objects of this act; and said company is hereby authorized and empowered to locate, construct, and finally complete, a single, double, or treble railroad or way, from some suitable point in the city of Hartford, by the most direct and feasible route, to the northern line of the State of Connecticut, thence to Springfield, in the State of Massachusetts, provided the company shall obtain leave from the legislature of Massachusetts so to extend the same; and to transport, take, and carry property and persons upon said railroad or way, by the power and force of steam, or animals, or of any mechanical or other power, or any combination of them, which said company may choose to apply; and, for the purpose of constructing said railroad or way the said company are hereby authorized to lay out their road, not exceeding six rods wide, through the whole length, and for the purpose of cuttings and embankments, and for obtaining stone and gravel, may take as much more land as may be ne-

cessary for the proper construction and security of said road: provided, that all damages that may be occasioned to any person or corporation by the taking of such lands or materials for the purpose aforesaid, shall be paid for by said company in manner hereinafter provided.

2d. Resolved further, That the capital stock of said company shall be five hundred thousand dollars, with the privilege of increasing the same to one million of dollars; and to be divided into shares of one hundred dollars each, which shares shall be deemed personal property, and be transferred in such manner as the by-laws of said corporation shall direct.

3d. Resolved further, That James Brewster, John Babcock, John S. Mitchell, Joel Root, and such other persons as they shall associate with them for that purpose, not exceeding ten in the whole, including said Brewster, Babcock, Mitchell, and Root, or a majority of them, shall open books to receive subscriptions to the capital stock of said company, at such time and place as they or a majority of them may appoint, and shall give such notice of the times and places of opening said books as they may deem reasonable, and shall receive said subscriptions under such regulations as they may adopt for that purpose; and, if more than five thousand shares of stock shall be subscribed, they shall have the power to make the shares so subscribed the capital stock of the company, provided they shall not exceed ten thousand shares; and in case the subscriptions shall exceed ten thousand shares, the same shall be reduced and apportioned in such manner as may be deemed most beneficial to the corporation.

4th. Resolved further, That the immediate government and direction of the affairs of the company shall be vested in a board of seven directors, who shall be chosen by the stockholders of said company in the manner hereinafter provided, and shall hold their offices until others are duly elected and qualified to take their places as directors, and the said directors, a majority of whom shall be a quorum for the transaction of business, shall elect one of their number to be president of the board, who shall also be president of said company; they shall also choose a clerk, who shall be sworn to a faithful discharge of his duty, and a treasurer, who shall give bonds with surety to said company, in such sum as the said directors may require, for the faithful discharge of his trust.

5th. Resolved further, That the persons authorized by the third section of this act to open the books for subscriptions to the capital stock are hereby authorized, after the books of subscription to the capital stock of said company are closed, to call the first meeting of the stockholders of said company in such way and at such time and place as they may appoint, for the choice of directors of said company; and, in all meetings of the stockholders of said company, each share shall entitle the holder thereof to one vote, which vote may be given by said stockholder in person, or by lawful proxy; and the annual meeting of the stockholders of said company, for the choice of directors, shall be holden

at such time and place, and upon such notice, as the said company in their by-laws may prescribe.

6th. Resolved further, That in case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, said company shall not, for that cause, be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors of said company.

7th. Resolved further, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations, as they shall deem needful and proper, touching the disposition and management of the stock, property, estate, and effects of said company, not contrary to this charter, or the laws of this State, or of the United States, the transfer of shares, the duties and conduct of their officers and servants, touching the election and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company. Said company is also hereby empowered to purchase, receive, and hold such real estate as may be necessary and convenient in accomplishing the object for which this incorporation is granted; and may, by their agents, surveyors, engineers, and servants, enter upon such route or places to be designated by the directors, and approved by three commissioners, to be appointed by the General Assembly for that purpose, who shall have no interest in said railroad, after notice to the persons whose lands or estate may have been taken, and after having all objections which may by such persons be made to the location made by said directors as to the line, course, road, or way, whereon to construct said railroad or way; and it shall be lawful for said company to enter upon and use all such lands and real estate as may be necessary for them, and for the purposes set forth in the first section hereof; and said company shall be holden to pay all damages that may arise to any person or persons; and if the person or persons to whom damages may so arise and said company cannot agree as to the amount of such damages, it shall be the duty of said company to apply to the superior court of the county in which the real estate damaged may be situated, and to cause notice to be given to the adverse party of such application, and thereupon said superior court shall appoint three disinterested and judicious freeholders to assess the amount of such damages; and said freeholders, after being sworn, shall give notice to the parties of the time and place of their meeting on the business of their appointment, at which time and place they shall proceed to hear the parties, and to inquire into the extent of the damages, and shall assess just damages to the person or persons whose real estate may be taken or injured; which assessment shall be in writing, under the hands of said freeholders, and the same shall be returned to the clerk of said superior court, who shall record it; and when so returned and recorded, such assessment shall have the effect of a judgment, and execution may issue at the end of sixty days from the time when such assessment shall be so returned in favor of the persons respectively to whom damage may be assessed for the amount so to them assessed; provided that said railroad shall not be opened across the lands of any

person until the damages assessed to such persons shall have been paid, or secured to be paid, to his satisfaction; and that the said damages shall be so paid within sixty days after the same shall have been finally determined.

8th. Resolved further, That when the lands or other property or estate of any feme covert, infant, or person non compos mentis, shall be necessary for the construction of such railroad, the husband of such feme covert, and the guardian of such infant or person non compos mentis, may release all such damages for any lands or estate taken and appropriated as aforesaid, as they might do if the same were holden in their own right respectively.

9th. Resolved further, That said company is hereby authorized to construct, erect, build, make, and use, a single, double, or treble, rail road or way, of suitable width and dimensions, to be determined by the directors of said company, on the line or course by them designated, and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken, and carried on the same, and shall have power to erect and maintain toll-houses and other buildings for the accommodation of their concerns, as they may deem suitable for their interest.

10th. Resolved further, That whenever it shall be necessary for the construction of their single, double, or treble railroad or way, to intersect or cross any stream of water or water course, on any road or highway, it shall be lawful for said company to construct said railroad across or upon the same, but the said company shall restore the said stream, or water course, or road, or highway, thus intersected, to its former state, or in sufficient manner not to impair its usefulness. And in all cases when any road or public highway is so located that said railroad cannot be judiciously laid out and constructed across and upon the same, without interfering therewith, in such case or cases said corporation may, by their engineer, cause such road or roads to be changed or altered in such manner that said railroad may be made on the best site of ground for that purpose; provided said corporation shall put such road in as good repair as at the time of changing or altering the same.

11th. Resolved further, That it shall be lawful for the company hereby incorporated from time to time to fix, regulate, and receive the tolls and charges by them to be received for transportation of persons or property on their single, double, or treble railroad or way aforesaid, hereby authorized to be constructed, erected, built, and used, or upon any part thereof.

12th. Resolved further, That if any person shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction, or work of said company, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons so offending shall be deemed guilty of a misdemeanor, and shall forfeit and pay to said corporation double the amount of damage sustained by

at such time and place, and upon such notice, as the said company in their by-laws may prescribe.

6th. Resolved further, That in case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, said company shall not, for that cause, be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors of said company.

7th. Resolved further, That the directors shall have full power to make and prescribe such by-laws, rules, and regulations, as they shall deem needful and proper, touching the disposition and management of the stock, property, estate, and effects of said company, not contrary to this charter, or the laws of this State, or of the United States, the transfer of shares, the duties and conduct of their officers and servants, touching the election and meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company. Said company is also hereby empowered to purchase, receive, and hold such real estate as may be necessary and convenient in accomplishing the object for which this incorporation is granted; and may, by their agents, surveyors, engineers, and servants, enter upon such route or places to be designated by the directors, and approved by three commissioners, to be appointed by the General Assembly for that purpose, who shall have no interest in said railroad, after notice to the persons whose lands or estate may have been taken, and after having all objections which may by such persons be made to the location made by said directors as to the line, course, road, or way, whereon to construct said railroad or way; and it shall be lawful for said company to enter upon and use all such lands and real estate as may be necessary for them, and for the purposes set forth in the first section hereof; and said company shall be holden to pay all damages that may arise to any person or persons; and if the person or persons to whom damages may so arise and said company cannot agree as to the amount of such damages, it shall be the duty of said company to apply to the superior court of the county in which the real estate damaged may be situated, and to cause notice to be given to the adverse party of such application, and thereupon said superior court shall appoint three disinterested and judicious freeholders to assess the amount of such damages; and said freeholders, after being sworn, shall give notice to the parties of the time and place of their meeting on the business of their appointment, at which time and place they shall proceed to hear the parties, and to inquire into the extent of the damages, and shall assess just damages to the person or persons whose real estate may be taken or injured; which assessment shall be in writing, under the hands of said freeholders, and the same shall be returned to the clerk of said superior court, who shall record it; and when so returned and recorded, such assessment shall have the effect of a judgment, and execution may issue at the end of sixty days from the time when such assessment shall be so returned in favor of the persons respectively to whom damage may be assessed for the amount so to them assessed; provided that said railroad shall not be opened across the lands of any

person until the damages assessed to such persons shall have been paid, or secured to be paid, to his satisfaction; and that the said damages shall be so paid within sixty days after the same shall have been finally determined.

8th. Resolved further, That when the lands or other property or estate of any feme covert, infant, or person non compos mentis, shall be necessary for the construction of such railroad, the husband of such feme covert, and the guardian of such infant or person non compos mentis, may release all such damages for any lands or estate taken and appropriated as aforesaid, as they might do if the same were holden in their own right respectively.

9th. Resolved further, That said company is hereby authorized to construct, erect, build, make, and use, a single, double, or treble, rail road or way, of suitable width and dimensions, to be determined by the directors of said company, on the line or course by them designated, and shall have power to regulate the time and manner in which goods and passengers shall be transported, taken, and carried on the same, and shall have power to erect and maintain toll-houses and other buildings for the accommodation of their concerns, as they may deem suitable for their interest.

10th. Resolved further, That whenever it shall be necessary for the construction of their single, double, or treble railroad or way, to intersect or cross any stream of water or water course, on any road or highway, it shall be lawful for said company to construct said railroad across or upon the same, but the said company shall restore the said stream, or water course, or road, or highway, thus intersected, to its former state, or in sufficient manner not to impair its usefulness. And in all cases when any road or public highway is so located that said railroad cannot be judiciously laid out and constructed across and upon the same, without interfering therewith, in such case or cases said corporation may, by their engineer, cause such road or roads to be changed or altered in such manner that said railroad may be made on the best site of ground for that purpose; provided said corporation shall put such road in as good repair as at the time of changing or altering the same.

11th. Resolved further, That it shall be lawful for the company hereby incorporated from time to time to fix, regulate, and receive the tolls and charges by them to be received for transportation of persons or property on their single, double, or treble railroad or way aforesaid, hereby authorized to be constructed, erected, built, and used, or upon any part thereof.

12th. Resolved further, That if any person shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction, or work of said company, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons so offending shall be deemed guilty of a misdemeanor, and shall forfeit and pay to said corporation double the amount of damage sustained by

means of such offence or injury, to be recovered in the name of said corporation, with costs of suit, by action of debt.

13th. Resolved further, That the directors of said company may require the payment of the sum or sums subscribed to the capital stock of said company, at such times, and in such proportions, and upon such conditions, as they may deem fit; and in case any stockholder shall refuse or neglect to make payment pursuant to the requisition of the board of directors, the stock of such stockholder, or so much thereof as shall be necessary, may be sold by the directors of said corporation at public auction, after the lapse of six months from the time when the payment became due; and the surplus money, the avails of such sale, after deducting the payments due, and interest thereof, and the necessary expenses of the sale, shall be paid over to such negligent stockholder.

14th. Resolved further, That the legislature may authorize any company to enter with another railroad at any point of said Hartford and Springfield railroad, paying for the right of using the same, or any part thereof, such a rate of toll as the directors of the said Hartford and Springfield Railroad Company may from time to time prescribe, and complying with such rules and regulations as may be established by said Hartford and Springfield Railroad Company.

15th. Resolved further, That said corporation shall not be allowed to construct said railroad, or any part thereof, within the limits of the city of Hartford, except under the direction of the court of common council of said city; nor shall steam power be used on any part of said railroad within said city, without the permission of said court of common council.

16th. Resolved further, That should it become necessary to erect a bridge across Connecticut river, said company are hereby authorized and empowered to erect said bridge for the sole and exclusive accommodation of the travel on the said railroad; and it shall be lawful for said company to prevent the passing of the said bridge by carriages of any description other than those which are adapted to the travelling on the said railroad, or by horses not attached to such railroad carriages, or by persons on foot, or for any other travel whatever, except by such persons, carriages, or horses, as may be employed in the immediate service of the said Railroad Company; and a suitable draw shall be erected in said bridge by said company, and placed over the channel of said river, at the west end of said bridge, not less than thirty feet wide, and all vessels shall be permitted at all times to pass said draw, without payment of tolls, and suitable persons shall be provided by said company to open and shut said draw, on due notice of the approach of said vessel.

17th. Resolved further, That if said company shall not expend the sum of seventy thousand dollars upon said railroad or way within four years, or if they shall not construct, and complete, and put in operation, a single, double, or treble railroad or way, as hereinbefore authorized, within six years after the passage of this act, then the rights, privileges, and powers of said corporation shall be null and void.

18th. Resolved further, That the capital stock of said company shall be assessed at its just value in money, and taxed at the same rate as personal estate.

19th. It is hereby provided, That nothing herein contained shall be construed to prejudice or impair any of the rights now vested in the Enfield Bridge Company.

20th. Resolved further, That this act may be altered or amended at the pleasure of the General Assembly.

STATE OF CONNECTICUT, *ss:*

AT THE OFFICE OF THE SECRETARY OF STATE,
Hartford, June 25th, 1835.

I hereby certify, that the foregoing is a true copy of record in said office. In testimony whereof I have hereunto set my hand and the seal of this State, on the 12th day of June, A. D. 1835.

ROYAL R. HINMAN, *Secretary*.

Amendment to the Connecticut charter of the Hartford and Springfield Railroad Company, providing for its union with the charter of Massachusetts, passed May session, 1840.

Sec. 1. Resolved by this Assembly, That the persons who shall become stockholders in the "Hartford and Springfield Railroad Corporation," incorporated by the Legislature of the State of Massachusetts, in the year one thousand eight hundred and thirty-nine, shall be stockholders of the "Hartford and Springfield Railroad Company," incorporated by the Legislature of this State, in the year 1835, together with such persons as shall become stockholders of the said last mentioned corporation; and when the stockholders shall, by vote, have assented thereto, the said corporations shall become united into one corporation, by the name of the Hartford and Springfield Railroad Corporation, with a capital not exceeding the amount of the joint capital of both corporations; and all the tolls, franchises, rights, powers, privileges, and property, granted or to be granted, acquired or to be acquired, under the authority of the State of Massachusetts, or of this State, shall be held and enjoyed by all the stockholders, in proportion to the number of shares in either or both of said corporations.

Sect. 2. After the said union shall be perfected, the said stockholders shall hold their meetings, make their by-laws, appoint their officers, and transact all their business as one corporation: Provided, That one or more of the officers of said corporation shall be resident in this State, and one or more of them in the State of Massachusetts, on whom process against said corporation may be legally served in either State, and said corporation shall be held to answer within the jurisdiction where said service shall be made and the process is returnable.

Sect. 3. The share or shares of any stockholder in said corporation shall be liable to attachment, and to be taken on execution in the State where such stockholder shall reside, at the time of the service of such process: Provided, The laws of such State authorize the attachment

and taking on execution of such property, and an attested copy of such writ or execution, and of the return of the officer thereon, shall, at the time of such service, be left with the clerk, or a director of said corporation, or at his usual place of abode, by the officer making the service.

Sect. 4. The said corporation shall so make out and keep an account of the expenditures on said road, from its commencement to its completion, as clearly to exhibit what portion thereof belongs to that part of said road situated in Massachusetts, and what portion to that part in Connecticut. And two commissioners shall be appointed, one by the governor of each State, to hold their offices for the term of four years, and to be reasonably compensated for their services by said corporation, who shall ascertain what proportion of expenditures on said road, and of the other expenses attending its construction, maintenance, and use; also what proportion of the receipts and profits of said railroad shall properly appertain and belong to the portions of said road in each State respectively. And any annual report required to be made by the directors, to the Legislature of this State, shall be approved by the said Commissioners.

Sect. 5. The said corporation, so far as their road is situated in Connecticut, shall be subject to the general laws of this State to the same extent as if their road were wholly therein.

Sect. 6. The several sections and provisions of this resolution shall not take effect until the same shall have been accepted by the stockholders of each of said corporations, at meetings duly called for the purpose, nor until said stockholders last mentioned, also in legal meetings duly warned for that purpose, shall have accepted similar provisions contained in the said act of the State of Massachusetts, nor until the same shall have been accepted by the stockholders of said united corporation, at a meeting called for the purpose, at which meeting they may ratify and confirm all or any of their former doings, when separately convened, and adopt them as the acts and doings of said united corporation.

Amendment to the Connecticut charter of the Hartford and Springfield Railroad Company, passed May session, 1842.

At a General Assembly of the State of Connecticut, holden at New Haven, in said State, on the first Wednesday of May, in the year of our Lord one thousand eight hundred and forty-two:

Resolved by this Assembly, That, whenever the subscriptions to the capital stock of the Hartford and Springfield Railroad Company shall amount to the sum of three hundred thousand dollars, said company may be organized, and may commence the construction of their railroad, anything in the charter of said company to the contrary notwithstanding.

Resolved, That, whenever any vacancy shall occur in the board of directors of said company, by death or otherwise, the remaining directors shall have power to fill such vacancy until the next meeting of the stockholders.

Provided, The said amount of capital stock shall be subscribed, and said company shall be organized on or before the first day of January, 1843, and that said company shall expend, in the construction of said road, the sum of $30,000, on or before the next session of the General Assembly.

Resolved further, That the directors of said company, after one month's delay by any stockholder to pay any instalment required to be paid by the call of the directors, be, and they hereby are, authorized to make sale of said delinquent stockholder's stock, according to the provisions of the charter of said company.

Resolved further, That in case the persons required by 7th section of said charter to be notified, shall have no place of residence in this State, known to the occupant of the land over which said road passes, or to any one of the directors or commissioners of said company, then a notice, published for six weeks successively in two newspapers printed in Hartford, stating what proceedings are intended by said company to be instituted, shall be sufficient notice to such non-resident landholder; and when the place of residence of any such landholder is known to the occupant of said lands, or to either of the directors or commissioners aforesaid, and is out of the State, then a duplicate original notice, or true and attested copy thereof, deposited in a post office, post paid, directed to such person, eight weeks before the hearing is to be had, shall be sufficient notice according to said charter.

Resolved further, That it shall not be necessary, in order to the location of said road by such directors, and the approval thereof by said commissioners, that the width thereof, in such parts as may be less than six rods wide, shall be definitely established by said directors or commissioners previous to said location; but, before the damages shall be assessed to any landholder by the said appraisers, the width of said road shall be definitely fixed and established by said directors over and across the land so taken, and upon the line of the road so located.

Resolved further, That said company may, at any time before the completion of said road, alter and change any part of the location thereof, or discontinue such part thereof as in their opinion convenience or necessity may require to be changed or discontinued, subject to the approval of the commissioners of said road, and the other requirements of said charter.

Resolved further, That said company be, and they hereby are, authorized to agree upon the damages to be paid to the respective landholders, whose land shall be taken and appraised, for the making and perpetually maintaining all such fences as may be needful and lawful, on each side of said road, across and over the land so taken and appraised, with the proprietors thereof; and thereupon said company shall be forever discharged from all liabilities to make and maintain such fences.

Provided, That these resolutions be subject at all times to be altered, amended, or rescinded by the General Assembly.

STATE OF CONNECTICUT:

OFFICE OF SECRETARY OF STATE,
New Haven, May 28th, 1842.

I hereby certify, that the above and foregoing is a true copy of record in this office.

In witness whereof I have hereunto affixed the seal of this State, and officially signed the same.

(Signed) N. A. PHELPS,
Copy. *Secretary of State.*

Charter from the State of Massachusetts of the Hartford and Springfield Railroad Company. Passed April 5, 1839.

An act to incorporate the Hartford and Springfield Railroad Corporation. Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Sec. 1. Charles Stearns, George Dwight, Stephen O. Russell, and George Bliss, their associates and successors, are hereby made a corporation, by the name of the Hartford and Springfield Railroad Corporation, with all the powers and privileges, and subject to all the duties, liabilities, and provisions, contained in that part of the thirty-ninth chapter of the Revised Statutes which relates to railroad corporations, in the statute of one thousand eight hundred and thirty-seven, chapter two hundred and twenty-six, in the statute of one thousand eight hundred and thirty-eight, chapter ninety-nine, and in the forty-fourth chapter of said Revised Statutes; and said corporation is hereby authorized and empowered to locate, construct, and finally complete a railroad, from a point in Springfield to the north line of the State of Connecticut, commencing either at or near Chicopee river, or at or near the village of Springfield, and passing southerly as near the Connecticut river as is convenient, and in the valley of the river, either upon the east side thereof, through a part of the town of Springfield, and near the mouth of the Pecowsick brook, and thence through the meadows, in the town of Longmeadow, in the general direction towards Thompsonville, to the line of the State of Connecticut; or upon the westerly side of Connecticut river, and as near the same as is conveniently practicable, through a part of the town of West Springfield, to the line of the State of Connecticut, with a view to unite the said railroad with a railroad authorized by the legislature of Connecticut from Hartford to the line of the State of Massachusetts.

Sec. 2. The capital stock of said corporation shall not exceed the sum of three hundred thousand dollars, and shall be divided into shares of one hundred dollars each; and the said corporation may purchase and hold such real estate, materials, engines, cars, and other things, as may be necessary for depots, for the use of said road, and for the transportation of persons, goods, and merchandise.

Sec. 3. The said corporation may unite the track of their road with

the Western railroad, at such safe and convenient place, near the Connecticut river, as shall not interfere with the depot building of the Western Railroad Corporation, they paying all expenses incident thereto. And the said Hartford and Springfield Railroad Corporation may cross the track of the Western railroad, in such safe and convenient place near said river as will not interfere with said buildings, or obstruct the convenient use of the track of said Western railroad.

Sec. 4. The legislature may authorize any company to enter with another railroad at any point of said Hartford and Springfield railroad, within this State, and use the same, or any part thereof, paying therefor such a rate of toll or compensation as the legislature may, from time to time, prescribe, or that may be fixed under the provisions of any general law of this Commonwealth, complying with such rules and regulations as may be established by said Hartford and Springfield Railroad Corporation: Provided, however, that no other corporation shall enter upon said Hartford and Springfield railroad, with any motive power, unless the said Hartford and Springfield Railroad Corporation shall refuse to draw over their road, or any part thereof, the cars of any other railroad corporation, which which may be authorized to enter with their railroad upon the road of said Hartford and Springfield Corporation.

Sec. 5. The legislature may, after the expiration of five years from the time when the said railroad shall be opened for use, from time to time, alter or reduce the rate of tolls, or other profits upon said road; but the said tolls shall not, without the consent of said corporation, be so reduced as to produce, with said profits, less than ten per cent. per annum.

Sec. 6. If the said corporation shall not have been organized, and the location of the route of said road filed with the county commissioners of the county of Hampden, within two years from the passage of this act, or if the said corporation shall fail to complete said road within three years from the passage of this act, the same shall be void.

Sec. 7. The persons who shall become stockholders in the Hartford and Springfield Railroad Company, incorporated by the legislature of the State of Connecticut, in the year one thousand eight hundred and thirty-five, shall be stockholders of this corporation, together with such persons as shall become stockholders of this corporation; and when the stockholders shall by vote have assented thereto, the said corporations shall become united into one corporation, by the name of the Hartford and Springfield Railroad Corporation, with a capital not exceeding the amount of the joint capital of both corporations; and all the tolls, franchises, rights, powers, privileges, and property, granted or to be granted, acquired or to be acquired, under the authority of the State of Connecticut, or of this State, shall be held and enjoyed by all the said stockholders, in proportion to their number of shares in either or both of said corporations.

Sec. 8. After the said union shall be perfected the said stockholders shall hold their meetings, make their by-laws, appoint their officers, and transact all their business, as one corporation: Provided, that one or more of the officers of said corporation shall be resident in this Com-

monwealth, and one or more of them in the State of Connecticut, on whom process against said corporation may be legally served in either State; and said corporation shall be held to answer within the jurisdiction where such service shall be made, and the process is returnable.

Sec. 9. The share or shares of any stockholder in said corporation shall be liable to attachment, and to be taken on execution, in the State where such stockholder shall reside at the time of the service of such process: Provided, the laws of such State authorize the attachment and taking on execution of such property; and an attested copy of such writ or execution, and of the return of the officer thereon, shall, at the time of such service, be left with the clerk or a director of said corporation, or at his usual place of abode, by the officer making the service.

Sec. 10. The said corporation shall so make out and keep an account of the expenditures on said road, from its commencement to its completion, as clearly to exhibit what portion thereof belongs to that part of said road situated in Massachusetts, and what portion to that part in Connecticut. And two commissioners shall be appointed, one by the Governor of each State, to hold their offices for the term of four years, and to be reasonably compensated for their services by said corporation, who shall ascertain what proportion of expenditures on said road, and of the other expenses attending its construction, maintainance, and use, also what proportion of the receipts and profits of said railroad shall properly appertain and belong to the portions of said road in each State respectively. And the annual report required to be made by the directors to the legislature of this Commonwealth shall be approved by the said commissioners.

Sec. 11. The said corporation, so far as their road is situated in Massachusetts, shall be subject to the general laws of this State, to the same extent as if their road were wholly therein.

Sec. 12. The seventh, eighth, ninth, and tenth sections of this act shall not take effect until the legislature of the State of Connecticut shall have enacted provisions similar to those contained in said sections; nor until the provisions so enacted in each State shall have been accepted by the stockholders of each of said corporations at meetings duly called for the purpose; nor until the same shall have been accepted by the stockholders of said united corporation at a meeting called for the purpose; at which meeting they may ratify and confirm all or any of their former doings, and adopt them as the acts and doings of said united corporation.

April 5th, 1839.

At a supreme court of errors, holden at Hartford, within and for the county of Hartford, in the State of Connecticut, on the first Tuesday of July, A. D. 1846; present, honorable Thomas S. Williams, chief judge; honorable Samuel Church, honorable Henry M. Waite, honorable William L. Storrs, honorable Joel Hinman, associate judges: the Company for erecting and supporting a toll bridge, with locks, from

Enfield to Suffield, plaintiffs, *vs.* the Hartford and New Haven Railroad Company, respondents.

The plaintiffs (petitioners) brought their petition, dated the 28th day of December, A. D. 1843, to the superior court, on the last Tuesday of January, A. D. 1844, and by legal continuances came to the June adjourned term, 1844, of said court. At the January term of said superior court, A. D. 1845, the petitioners brought their supplemental bill, asking for an injunction against the respondents. The court reserved the questions arising on said petition for the advice of this court, at the June term, 1845, and this court advised the superior court to grant an injunction. At the September term, 1845, of said superior court, a board of appraisers was appointed to assess damages to the petitioners; and at the January term, 1846, of said superior court, the respondents filed their supplemental answer, and the question what judgment should be rendered in said court was reserved for the advice of this court. And having fully heard said cause, this court advises the superior court to dismiss the bill of the petitioners.

The Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
Hartford and New Haven Railroad Company.

Hartford county superior court, September term, 1846.

This court doth order and decree that the petition of the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, be not granted, and that the same be dismissed.

The Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
The Hartford and New Haven Railroad Company.

Hartford county superior court, September term, 1846.

And now the said petitioners say that the said court, in proceeding to, and passing, the final jugment and decree in said cause, manifestly erred and mistook the law, and therefore within the time prescribed by law file this their motion in error, and pray that the record in said case may be transmitted to the next supreme court of errors, to be holden in said county, on the second Tuesday of June, 1847. And Thomas C. Parkins, of said Hartford, recognises in the sufficient sum of one hundred dollars to the adverse party, to pay all damages, if the petitioners fail to prosecute the same to effect.

The petitioners, by their attorneys,

ELLSWORTH, TOUCEY & PARKINS.

Assignment of errors.

THE COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
THE HARTFORD and New Haven Railroad Company.

Supreme court of errors, June term, 1847.

And now the plaintiffs in error complain and say, that the superior court, in proceeding to and rendering said final judgment or decree, erred, and specially assign the following errors, viz:

1. The plaintiffs have a valid contract with the State of Connecticut, as alleged and found, securing to them, for a valuable consideration, the exclusive right to erect and maintain any bridge over the Connecticut river, within the limits specially designated, for the term of one hundred years from the date of said grant; but the superior court has passed the decree aforesaid, which impairs the obligation of said contract, contrary to the Constitution of the United States.

2. The plaintiffs in error have a valid grant from the State of Connecticut of the exclusive right to construct and maintain any bridge over the Connecticut river, within said limits, for the term of one hundred years from the date of said grant, with an express contract by said State, for a valuable consideration, that no other person shall have any right to erect any bridge, within said limits, during said term, as alleged and found; but said superior court has decided and adjudged, that the Legislature of Connecticut may resume a part of said grant, and grant the same to another corporation, against the express stipulations of said contract, upon providing a reasonable compensation for such breach of said contract and resumption of said grant, contrary to the Constitution of the United States.

3. The plaintiffs in error have such exclusive right, under said grant from said State of Connecticut, secured by express contract on the part of said State, as alleged and found; but said superior court has adjudged and decreed, that a grant by the Legislature of Connecticut to the defendants of the right of a bridge within larger limits, with a proviso that nothing in the grant to the defendants should be construed in any manner to impair the rights of the plaintiffs within their exclusive limits, authorizing the defendants to construct and maintain a bridge within the said exclusive limits of the plaintiffs, on making the plaintiffs compensation, contrary to the Constitution of the United States.

4. The plaintiffs in error, upon the whole record, were entitled to a decree enforcing the obligation of said contract of the State of Connecticut; but said superior court dismissed said bill, in derogation of said grant of said State, and upholding said proceedings, which impair the obligation of said contract, contrary to the Constitution of the United States.

Wherefore, and for other manifest errors, the plaintiffs say, that said decree of said superior court is erroneous and ought to be reversed.

ELLSWORTH,
TOUCEY, and
PARKINS,
For the plaintiffs in error.

The above and foregoing is a true copy of the files, records, and proceedings in said case.

HENRY PERKINS,
Assistant clerk.

State of Connecticut, supreme court, Hartford county, July term, 1847.

THE COMPANY for erecting and supporting a toll bridge, with locks, from Enfield to Suffield,
vs.
THE HARTFORD and NEW HAVEN Railroad Company.

Motion in error.

The defendants in error defend, plead, and say, that in the said proceedings, or final judgment, or decree of said superior court, there is nothing erroneous.

Per HUNGERFORD & CONE,
Attorneys.

At a supreme court of errors, holden at Hartford, within and for the county of Hartford, on the first Tuesday of July, A. D. 1847, present, honorable Samuel Church, chief judge; Henry M. Waites, William L. Storrs, Joel Hinman, William W. Ellsworth, associate judges, the "Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield," a body politic, duly incorporated by the laws of this State, with power to sue and be sued, defend and be defended, and having an office and place of business in Enfield, in said county of Hartford, brought their petition to the superior court, for the county of Hartford, sitting in chancery, against the Hartford and New Haven Railroad Company, a body politic, duly incorporated by the laws of this State, with power to sue and be sued, praying for relief in the premises, as per petition on file, dated at Hartford, the 28th day of December, A. D. 1843.

This cause was continued, from term to term, to the January term of said court, A. D. 1846, when it was reserved for the consideration and advice of this court.

This court, at the July term, A. D. 1846, advised the superior court that the petition of the said Bridge Company ought not to be granted, and that the petition of said Bridge Company ought to be dismissed. The said superior court, at its September term, A. D. 1846, dismissed the petition of the said Bridge Company, in conformity with the advice of this court.

Thereupon "the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield," by their counsel, filed a motion in error, praying that the records in said cause might be transmitted to this court, at its July term, A. D. 1847. And bonds having been given according to law, said motion was allowed, and said cause comes to this court duly certified, as on file.

And now the parties being fully heard by their counsel, this court doth adjudge, that in the process, record, and judgment transmitted, there is no error.

STATE OF CONNECTICUT,
Hartford county, ss:

Office of the clerk of the supreme court of errors. Hartford, September 1, 1847.

The foregoing is a true copy of record.
Witness my hand, and the seal of said court.
[SEAL.] CHAUNCEY HOWARD,
Clerk.

UNITED STATES OF AMERICA, *ss:*

To the Hartford and New Haven Railroad Company, a corporation duly incorporated by the authority and laws of the State of Connecticut, with liberty and power to sue and be sued.

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be held at Washington, on the first Monday of December next, pursuant to a writ of error to the supreme court of errors within and for the State of Connecticut, it being the highest court in said State in which a decision could be had, wherein the Company for erecting and supporting a toll bridge, with locks, from Enfield to Suffield, a corporation duly incorporated by the authority and laws of the State of Connecticut, with power to sue and be sued, are plaintiffs, and you are defendants in error; to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf; and wherein the plaintiffs in error complain, that in proceeding to and rendering said judgment the court erred and mistook the law, in this, to wit, that the validity of certain statute laws of the State of Connecticut was drawn in question on the ground of their being repugnant to the Constitution of the United States, as impairing the obligation of the contract of the State of Connecticut, as above set forth, with the plaintiffs in error, and the decision of said supreme court of errors was in favor of their validity. Whereas said court should have adjudged said statute laws to be void, as being repugnant to that clause of the Constitution of the United States which forbids a State to pass any law which shall impair the obligation of a contract; and for a special assignment of errors the plaintiffs refer to the special assignment of errors as particularly set forth in the record of said supreme court of errors. And further specially assign for error, that the judgment and de-

cree of said supreme court of errors was in derogation of the original grant, and also of the additional grant to the plaintiffs in error, made by a resolution of the State of Connecticut in the year 1839, and so was in violation of the Constitution of the United States, as impairing the obligation of said contract.

James Dixon, of Hartford, in said county, recognised with surety in the sufficient sum of five hundred dollars, to the adverse party, to pay all damages if the plaintiffs in error fail to prosecute the same to effect.

Given under my hand and seal, and the seal of the supreme court of errors of the State of Connecticut, at Litchfield, in the county [SEAL.] of Litchfield, in said State, this twenty-first day of September, A. D. 1847.

SAMUEL CHURCH,
Chief judge of the sup. ct. of errors of the State of Conn.

DISTRICT OF CONNECTICUT,
Hartford county, ss:

HARTFORD, *October 1st*, 1847.

By virtue hereof, I summoned the within named Hartford and New Haven Railroad Company to appear, in obedience to the within citation, in said court, by leaving a true and attested copy of the within writ of error with and in the hands of Horatio Fitch, of said Hartford, secretary of the Hartford and New Haven Railroad Company, at and within the office of said company. Also, I left a true and attested copy of this writ of error with Chauncy Howard, esq., who is clerk of the supreme court of errors of the State of Connecticut, at the office where the original files and records of said court are kept.

Attest: BENNING MANN.
U. S. Marshal for said district.

Fees—2 copies, - - - -	$65 00
Trav. to sum. and return, - -	17 00
	$82 00

Filed 18th October, 1847.